

Joseph S. Shepherd

1621 Lyndon Street Unit A South Pasadena California 91030 USA

TEL 626 441 6653 CEL 626 818 3880 FAX 253 830 7843

e mail: Joesshep@pacbell.net

25 September 2008

Secretary, USNRC

Attn: Chief Rulemakings and Adjudications Staff

Washington DC 20555-0001

Response to USNRC Order IA-08-014

In accordance with 10 CFR 2.202, I, Joseph Shepherd, hereby respond to the Order (Effective Immediately Prohibiting Involvement in 10 CFR Part 71 Licensed Activities and Conditioning Other NRC-Licensed Activities), dated September 8, 2008. This response is made in writing and under oath and affirmation.

As acknowledged by the terms of the plea agreement with the Department of Justice regarding the three examples of Deliberate Misconduct:

Example one: Admit

Example two: Admit

Example three: Admit

Please see my separate response to the Order addressing the lessons that I learned from this situation and the reasons that the NRC should have confidence that I will perform licensed activities in accordance with NRC regulations.

Also, consistent with the terms of the plea agreement, I hereby consent to the Order and waive my right to request a hearing.

Sincerely,


Joseph S. Shepherd

CC: Director, Office of Enforcement
USNRC
Washington DC 20555-0001

Assistant General Counsel for Materials Litigation and Enforcement
USNRC
Washington DC 20555-0001

Joseph S. Shepherd

1621 Lyndon Street Unit A South Pasadena California 91030 USA
TEL 626 441 6653 CEL 626 818 3880 FAX 253 830 7843
e mail: Joesshep@pacbell.net

25 September 2008

Secretary, USNRC
Attn: Chief Rulemakings and Adjudications Staff
Washington DC 20555-0001

Response to USNRC Order IA-080014 — Lessons Learned

As required by the Order (Effective Immediately Prohibiting Involvement in 10 CFR Part 71 Licensed Activities and Conditioning Other NRC-Licensed Activities), dated September 8, 2008, this letter includes a list of lessons learned and measures taken to avoid recurrence, as well as a statement of the reasons that the NRC should have confidence that I will person licensed activities in compliance with NRC regulations.

Regarding the three examples of Deliberate Misconduct:

Example one:

At the time of the purchase of the COC5979 package from Alpha Omega Services, Carrie Hedger and Troy Hedger had the specific container to be purchased disassembled and ready for inspection/assembly. I was present for the assembly of the package. During this packaging process, the end caps were installed onto the cask and the bolts were tightened. There was no specific act of checking the threads on the bolts nor were there any directions that this was part of the procedure. The directions were to make certain that the bolts were fastened securely onto the cask and that none of them were stripped. This was accomplished by using a socket or end wrench to tighten each bolt into the cask. No mention was made of checking the threads on each bolt. In addition, no reference was made to checking the container against the COC drawing package prior to every shipment. It also came to light subsequently that a full set of documentation was not provided to us by Alpha Omega Services at time of purchase.

I followed the same procedure for packaging the COC5979 unit as I viewed on that first day at time of purchase of the package. As a result, I did not complete all of the steps of the package inspection as required by the CoC even though I signed "ok" on the checklist and certified that the package conformed to NRC requirements.

Lessons Learned – I understand I am responsible for making certain that all the procedures were followed. I further understand that simply relying on the demonstration and information that was provided to me by the manufacturer of the container is no substitute for reviewing, understanding, and complying with applicable regulations. In the future, I will take active steps to ensure that I have obtained and reviewed all relevant materials associated with a package. I will verify that all procedures were followed and will not make any "assumptions" regarding compliance obligations.

Example two:

Example two involved a shipment where the FTS checklist contained an "OK" and certified on the bill of lading that the package met all governmental regulations, signifying that I had performed all steps of the inspection and that the package met all national governmental regulations. In fact, I was not present and did not conduct the inspection. At the time, I thought that need to deliver a therapy source to a hospital out of the country which needed it (and whose permits were expiring) when

combined with a personal family medical emergency, warranted having another individual actually perform the packaging. Although this person had been licensed to package the container by the manufacturer for 15 years, he was not authorized or qualified to perform the inspection on SPEC's behalf. As a result, SPEC did not comply with the CoC, and thus radioactive material was delivered for transport without the license required by 10 CFR 71.3.

Lessons Learned – In hindsight, there is no excuse for signing documents for a package that I did not physically assemble. The regulations and checklists are there to ensure that the package is actually inspected by qualified persons. If I am not present, then I cannot certify that the package was properly prepared. Personal family emergencies do not justify ignoring applicable laws and regulations. There are no extenuating circumstances.

Example three:

As previously submitted, the facts surrounding this situation are as follows:

- a. In 2002, the COC5979 cask was at SWRI and was to be loaded with a Theratron Cobalt 60 source drawer.
- b. The end caps for this cask were raw lead on the inside with two 2" diameter holes. All of the other COC5979 casks that I had used (rentals from Alpha-Omega Services) had 2.5" diameter holes in the end caps.
- c. I instructed SWRI to open the holes to accept the 2.5" diameter source drawer.
- d. Within approximately 90 days the cask was sent to Alpha Omega Services for a routine inspection.
- e. Alpha Omega Services inspected the cask and approved it for use in January 2003.

The only thought process at the time was that adding the holes brought the cask into conformance with how it should have been made. When the correspondence and communications took place in 2004/2005, I did not remember that the above situation had happened. In fact, as the container had been inspected and certified after the modification, I had no outside input that this was a 'modification'.

Lessons Learned – I now understand that this is not acceptable. Conformance with the CoC ensures that a cask is used safely. Any package certified under a Part 71 QA program is a separate entity unto itself. Any changes made to a package covered under a Part 71 QA program must be made by a qualified organization which has an approved Part 71 program. Unapproved modifications to the cask invalidate the safety evaluation that underpins the CoC and poses a risk to the public. In the future, I will take active steps to ensure that I have obtained and reviewed all relevant materials associated with a licensed activity. I will verify that all procedures are followed and will not make any "assumptions" regarding compliance obligations. Review and oversight of all procedures is a necessary process and failure to have enough different individuals making these reviews can easily result in errors.

I believe that the NRC should have confidence that I will perform licensed activities in accordance with NRC regulations because of the following:

- The criminal and administrative enforcement proceedings have been eye-opening. I have always considered myself to be a law-abiding citizen and never imagined that I would become embroiled in such circumstances. The severity of the penalty — both financially and to my reputation — ensures that I will carefully consider the significance of meeting all compliance obligations going forward. In short, the enforcement action has been an effective deterrent of future non-compliances.

- Although I obviously recognized the potential for health and safety associated with radioactive materials previously, I now have a better appreciation and understanding of the need for and significance of compliance with packaging requirements. I further understand the limits of my expertise and will no longer perform any activities where I have any doubts as to my ability to fully comply with applicable regulations.
- During the course of the administrative and criminal enforcement proceedings, I have been sensitized to the rigors of compliance. Although I have always appreciated that compliance was necessary to protect public health and safety, I better appreciate the dangers of substituting "good enough" for compliance with express terms and requirements.

In addition, I have obtained Inspection Approval letters from the following agencies, which demonstrate that I have been performing work that meets regulatory requirements in other jurisdictions:

- State of California
- State of Kansas (two inspections)
- State of Nevada
- State of Georgia
- State of Florida
- State of Illinois
- State of Oklahoma
- State of New Mexico
- State of Arizona

I have also received a letter of appreciation from the Government of Australia. In light of the lessons that I have learned from this experience, as well as the above indications that I've been performing work in compliance with other regulatory obligations in other jurisdictions, the NRC should have confidence that I will perform licensed activities in conformance with all NRC requirements.

Sincerely,



Joseph S. Shepherd

CC: Director, Office of Enforcement
USNRC
Washington DC 20555-0001

Assistant General Counsel for Materials Litigation and Enforcement
USNRC
Washington DC 20555-0001



Janet Napolitano
Governor

Aubrey V. Godwin
Director



4814 South 40th Street

Phoenix, Arizona 85040-2940

(602) 255-4845
Fax (602) 437-0705

July 6, 2005

Richard Foss
Radiation Safety Officer
Foss Therapy Services, Inc.
P.O. Box 325
Alta Loma, CA 91701

RE: Reciprocity Inspection of California License # 6875-36

Dear Mr. Foss:

A reciprocity inspection of California License #6875-36 was conducted at the temporary job site located at Southwest Veterinary Specialist Center located in Tucson, Arizona on June 15, 2005 by Jeff Short and Philip Kern of this office. At the conclusion of the inspection, the findings were discussed with you.

Areas examined during this inspection-included organization and administrative control, use of radioactive materials, employee exposure records, area surveys, and guidance to employees concerning radiation safety. Within these areas the inspection consisted of a selective examination of procedures and representative records, interviews with employees and observations by the inspector.

Your radioactive material program appears to be in compliance with Title 12, Chapter 1, Radiation Regulatory Agency, Arizona Administrative Code. Thank you for your assistance during the inspection and in particular for your efforts in conducting a program that minimizes radiation exposure through the use of good radiological health and safety methods.

Should you have any questions concerning this inspection, please contact this office and we will be glad to discuss them with you.

Sincerely,

Aubrey V. Godwin,
Director
PK:AVG:pk



STEVEN A. THOMPSON
Executive Director

OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY

BRAD HENRY
Governor

July 5, 2007

Richard Foss, RSO
Foss Therapy Services, Inc.
8794 Avalon Street
Alta Loma, California 91701

RE: DEQ FORM #410-591

Dear Mr. Foss:

This letter and the enclosed DEQ FORM #410-591 refer to the inspection conducted by Mohammed Idrissa and Julia Ralston of the Radiation Management Section of the Department of Environmental Quality (DEQ) on June 27, 2007. The inspection was an examination of activities conducted under California Byproduct Material License No. 6875-36 as they relate to radiation safety and to compliance with Oklahoma Environmental Quality Code, the Oklahoma Administrative Code [OAC] 252:410 (Rules), portions of Title 10 of the Code of Federal Regulation [10 CFR] incorporated by reference, and conditions of the license. The inspection consisted of selective examinations of procedures, interviews of personnel, documents, independent measurements, and observation of staff activities. An exit briefing was conducted with you and Mr. George MacDurmon RSO, Oklahoma Health Science at the conclusion of the inspection.

No violations were identified at the time of this inspection; therefore, no response to this letter is required.

Thank you for your time and cooperation. If you have any questions, please feel free to call Mohammed Idrissa at (405) 702-5164.

Sincerely yours,

Mike Broderick, Environmental Programs Manager
Radiation Management Section
Land Protection Division

MB/mi

Enclosure: DEQ FORM 410-591
cc: George MacDurman, RSO, OUHSC



BILL RICHARDSON
GOVERNOR

**State of New Mexico
ENVIRONMENT DEPARTMENT**

Field Operations Division

Radiation Control Bureau

Harold Runnels Building

1190 St. Francis Drive, P.O. Box 26110

Santa Fe, New Mexico 87502-6110

Telephone (505) 476-3060

Fax (505) 476-3232



RON CURRY
SECRETARY

ANA MARIE ORTIZ
DIRECTOR

June 15, 2006

Richard D. Foss, RSO
Foss Therapy Services, Inc.
8794 Avalon Street
Alta Loma, CA 91701

Dear Mr. Foss,

This letter documents an inspection conducted at the University of New Mexico in Albuquerque by Wendy Lacey on June 14, 2006 of activity authorized under the "Notice of Reciprocal Recognition of License in New Mexico" letter dated May 18, 2006. The inspection was an examination of activities authorized under the aforementioned letter as they relate to radiation safety, and compliance with the New Mexico Radiation Protection Regulations (20 NMAC 3.1).

During the inspection, no deficiencies were found. Mr. Joseph L. Shepherd conducted himself in a very professional and compliant manner. The information required to assess your radiation program in the field was readily available.

Please thank Mr. Shepherd for the courtesy extended to Ms. Lacey during the inspection. Should you have any questions, please call me at 505-476-3236.

Sincerely,

A handwritten signature in cursive script, reading "Walter J. Medina".

Walter J. Medina
Program Manager
Radiation Safety Bureau

STATE OF NEVADA

JIM GIBBONS
Governor

MICHAEL J. WILLDEN
Director



ALEX HAARTZ, MPH
Administrator

BRADFORD LEE, M.D.
State Health Officer

DEPARTMENT OF HEALTH AND HUMAN SERVICES
HEALTH DIVISION
BUREAU OF HEALTH PROTECTION SERVICES

March 23, 2007

Mr. Rick Foss
Foss Therapy Services, Inc.
8794 Avalon Street
Alta Loma, CA 91701

Dear Mr. Foss

I'm writing this letter to thank you for your assistance in providing training to the Reno/Sparks hazardous materials team. After working with you and your associates I felt that your knowledge and experience with high activity radiation sources would be a valuable resource and your offer to use a real-world source transfer to provide training was a rare opportunity for the first responder community.

As radiation professionals we often overestimate the level of comfort that our first responders feel with radioactive materials. They are typically given training with small exempt quantity sources and notional drills that, while providing basic knowledge, do very little for their true understanding of radioactive material in commerce. With the current emphasis on nuclear terrorism and dirty bombs I believe that training for the most likely incidents, those involving industrial or medical sources, and transportation accidents, is underemphasized.

Thank you again for providing a training session that brought an industry perspective, and for sharing the knowledge of many years in the radiation field. I know the hazmat team appreciated it and I look forward to coordinating similar events in the future.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric Matus".

Eric Matus
Radiological Staff Specialist

- ☐ Bureau Administration
4150 Technology Way Ste. 300
Carson City, NV 89706
(775) 687-7550
Fax (775) 687-7552
- ☒ Radiological Health
4150 Technology Way Ste. 300
Carson City, NV 89706
(775) 687-7550
Fax (775) 687-7552
- ☐ Environmental Health
4150 Technology Way Ste. 300
Carson City, NV 89706
(775) 687-7550
Fax (775) 687-7552
- ☐ Public Health Rating and
Survey Officer
475 W. Haskell, Ste. 52
Winnemucca, NV 89445
(775) 623-6591
Fax (775) 623-6592
- ☐ Health Protection Services
2080 E. Flamingo, Ste. 319
Las Vegas, NV 89119
Environmental Health
(702) 486-5068
Radiological Health
(702) 486-5280
Fax (702) 486-5024
- ☐ Health Protection Services
850 Elm Street
Elko, NV 89801-3349
(775) 753-1138/1140
- ☐ Health Protection Services
475 W. Haskell Street, Rm. 38
Winnemucca, NV 89445
(775) 623-6588
Fax (775) 623-6528
- ☐ Health Protection Services
155 N. Taylor Street, Ste. 157
Fallon, NV 89406-3324
(775) 423-2281
Fax (775) 423-0259
- ☐ Health Protection Services
501 Mill Street
PO Box 151210
Ely, NV 89315
(775) 289-3325
Fax (775) 289-1463
- ☐ Health Protection Services
100 Frankie Street
P.O. Box 667
Tonopah, NV 89049-0667
(775) 482-3997
Fax (775) 482-6975



Illinois Emergency Management Agency
Division of Nuclear Safety

Rod R. Blagojevich, Governor

Andrew Velasquez III, Director

Joseph G. Klinger, Acting Assistant Director

JUL 13 2007

Reciprocity Identification Number
77-00376-01

Mr. Richard D. Foss
President and Radiation Safety Officer
Foss Therapy Services
8794 Avalon Street
Alta Loma, CA 91701-4762

Dear Mr. Foss:

On June 5, 2007, Mr. Andrew S. Gulczynski, a representative of this Agency, conducted an inspection of activities authorized under the General License issued pursuant to 32 Ill. Adm. Code 330.900. The inspection was conducted at Lifesource Blood Services in Glenview, Illinois and included a review of licensed activities as they relate to radiation safety and compliance with the regulations and was performed in accordance with the provisions of the Illinois Radiation Protection Act.

At the time of the inspection, those aspects of your radiation safety program reviewed by our representative were found to be in compliance with the regulations.

Thank you for the courtesy your staff extended to Mr. Gulczynski during the inspection. When corresponding, please refer to the Reciprocity Identification Number and ensure that all items submitted are in duplicate. Should you have any questions concerning this matter, please contact me at (217) 785-9929.

Sincerely,

Daren M. Perrero, Supervisor
Inspection and Enforcement

DMP:ASG

cc: Joseph S. Shepherd, Vice President



Control Number: INS-05-1005-606

October 17, 2005

Joseph Shepherd
Vice President
FOSS THERAPY SERVICES, INC.
8794 Avalon Street
Alta Loma, CA 91701

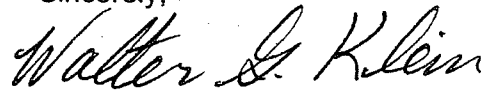
RE: State of California Radioactive
Materials License Number CA 6875-36

Dear Mr. Shepherd:

On September 27, 2005, members of our staff performed a reciprocity inspection of the activities conducted under the above referenced radioactive materials. This inspection was performed while you were providing field services for Shands Hospital, University of Florida, at 2000 S.W. Archer Road, Gainesville, Florida. Pursuant to paragraph 64E-5.216(1)(c), Florida Administrative Code (F.A.C.), under reciprocal recognition, out of state licensees must also comply with state of Florida regulations. This inspection revealed that current activities appear to be conducted within the requirements of the state of Florida's "Control of Radiation Hazard Regulations," Chapter 64E-5, Florida Administrative Code, and the terms and conditions of your radioactive materials license.

Thank you for your cooperation. No response to this letter is necessary. If you have any questions, please call our bureau at (850) 245-4545. Additional bureau resources including regulatory guides, forms, regulations and information notices may be accessed on our Web site at www.doh.state.fl.us/environment/radiation.

Sincerely,



Walter G. Klein
Environmental Specialist

cc: Jacksonville Field Office

Georgia Department of Natural Resources

4244 International Parkway, Suite 114, Atlanta, Georgia 30354

Lonice C. Barrett, Commissioner
Environmental Protection Division

Harold F. Reheis, Director
(404) 362-2675

September 30, 2002

Richard Foss
Owner
Foss Therapy Services
P.O. Box 325
Alta Loma, California 91701

Dear Mr. Foss:

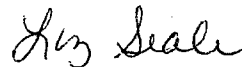
This letter refers to the inspection conducted by Liz Seale and Lauren Palmer on September 24, 2002. At the conclusion of the reciprocity inspection, a discussion of our findings was held with Joseph Shepherd and you.

The inspection was an examination of the activities conducted under the license as they relate to radiation safety and to compliance with Georgia Department of Natural Resources "Rules and Regulations for Radioactive Materials," Chapter 391-3-17, and the conditions of the license. The inspection consisted of selective examinations of procedures and representative records, interviews of personnel, independent measurements and observations by the inspector.

No items of noncompliance with Department of Natural Resources requirements were found during the inspection.

If you should have any questions or require assistance concerning this matter, please do not hesitate to call on us at (404) 362-2675.

Sincerely,



Liz Seale

Environmental Radiation Specialist
Radioactive Materials Program

STATE OF NEVADA

JIM GIBBONS
Governor

MICHAEL J. WILLEDEN
Director



ALEX HARTZ, MPH
Administrator

BRADFORD LEE, M.D.
State Health Officer

DEPARTMENT OF HEALTH AND HUMAN SERVICES
HEALTH DIVISION
BUREAU OF HEALTH PROTECTION SERVICES

March 23, 2007

Mr. Rick Foss
Foss Therapy Services, Inc.
8794 Avalon Street
Alta Loma, CA 91701

Dear Mr. Foss

I'm writing this letter to thank you for your assistance in providing training to the Reno/Sparks hazardous materials team. After working with you and your associates I felt that your knowledge and experience with high activity radiation sources would be a valuable resource and your offer to use a real-world source transfer to provide training was a rare opportunity for the first responder community.

As radiation professionals we often overestimate the level of comfort that our first responders feel with radioactive materials. They are typically given training with small exempt quantity sources and notional drills that, while providing basic knowledge, do very little for their true understanding of radioactive material in commerce. With the current emphasis on nuclear terrorism and dirty bombs I believe that training for the most likely incidents, those involving industrial or medical sources, and transportation accidents, is underemphasized.

Thank you again for providing a training session that brought an industry perspective, and for sharing the knowledge of many years in the radiation field. I know the hazmat team appreciated it and I look forward to coordinating similar events in the future.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric Matus".

Eric Matus
Radiological Staff Specialist

- ☐ Bureau Administration
4150 Technology Way Ste. 300
Carson City, NV 89706
(775) 687-7350
Fax (775) 687-7352
- ☒ Radiological Health
4150 Technology Way Ste. 300
Carson City, NV 89706
(775) 687-7350
Fax (775) 687-7352
- ☐ Environmental Health
4150 Technology Way Ste. 300
Carson City, NV 89706
(775) 687-7350
Fax (775) 687-7352
- ☐ Public Health Reporting and
Survey Officer
475 W. Haskell, Ste. 52
Winnemucca, NV 89445
(775) 623-6391
Fax (775) 623-6392
- ☐ Health Protection Services
2020 E. Flamingo, Ste. 319
Las Vegas, NV 89119
Environmental Health
(702) 486-5065
Radiological Health
(702) 486-5280
Fax (702) 486-5024
- ☐ Health Protection Services
650 Elm Street
Elko, NV 89601 3340
(775) 753-1138/1140
- ☐ Health Protection Services
475 W. Haskell Street, Rm. 38
Winnemucca, NV 89445
(775) 623-6588
Fax (775) 623-6528
- ☐ Health Protection Services
155 N. Taylor Street, Ste. 157
Fallon, NV 89406-3324
(775) 423-2281
Fax (775) 423-0259
- ☐ Health Protection Services
501 Main Street
PO Box 151210
Elko, NV 89615
(775) 289-3325
Fax (775) 289-1463
- ☐ Health Protection Services
100 Frankie Street
P.O. Box 667
Tonopah, NV 89069-0667
(775) 422-3997
Fax (775) 422-6975



K A N S A S

RODERICK L. BREMBY, SECRETARY

DEPARTMENT OF HEALTH AND ENVIRONMENT

KATHLEEN SEBELIUS, GOVERNOR

December 21, 2004

Richard Foss
Foss Therapy Service
8794 Avalon Street
Alta Loma, CA 91701

Dear Mr. Foss:

This refers to the inspection conducted by the undersigned on December 15, 2004 of your activities and procedures under Kansas Reciprocity Permit number 2004-059.

Based on the results of the inspection there were no items of non-compliance with the Kansas Radiation Protection Regulations (KRPR's) and/or specific conditions of the above mentioned permit for the area reviewed.

The courtesy and cooperation extended to the inspector by your staff was greatly appreciated. If you have any questions concerning this matter, please do not hesitate to contact this office at (785) 296-6726.

Sincerely,

James A. Harris, BS, RRPT
Radiation Control Inspector
Bureau of Air & Radiation
Radiation Control Program
Jharris@kdhe.state.ks.us

DIVISION OF ENVIRONMENT

Bureau of Air & Radiation

Radiation and Asbestos Control Section

CURTIS STATE OFFICE BUILDING, 1000 SW JACKSON ST., STE 310, TOPEKA, KS 66612-1366

Voice 785-296-1560

Fax 785-296-0984

<http://www.kdhe.state.ks.us/radiation>



SANDRA SHEWRY
Director

State of California—Health and Human Services Agency
Department of Health Services



ARNOLD SCHWARZENEGGER
Governor

May 10, 2007

Richard Foss, Radiation Safety Officer
Foss Therapy Services
8794 Avalon Street
Alta Loma, CA 91701

CALIFORNIA RADIOACTIVE MATERIAL LICENSE # 6875-36
[RAM Inspection]

Dear Mr. Foss:

On April 11 and 12, 2007, the Department conducted an inspection of your facilities and operations as they relate to radiation safety and compliance in accordance with Title 17, the California Code of Regulations and the California Health and Safety Code.

On April 12, 2007, we also observed your fieldwork at All Care Animal Referral Center in Fountain Valley, California, during a source exchange at that facility. Although there were no items of noncompliance found during the inspection, the Department has the following item of concern, which must be corrected to ensure your customer's maintain compliance with the terms and conditions of their license while you are performing work at their facility, as follows:

Because you are a service provider, authorized to use radioactive materials in Quantities of Concern (see attachment labeled "Table 1: Radionuclides of Concern") at your customer's facilities, but are *not* implementing the U.S. Nuclear Regulatory Commission's (NRC's) November 25, 2003 Manufacturer and Distributor Order (M&D Order), you must not have unescorted access to radioactive materials in Quantities of Concern. We are providing a communication from the U.S. NRC to the Agreement States, detailing the concerns in this regard. Please note that the discussion in this communication also applies where a service provider has received the U.S. NRC's M&D Order, but has informed the U.S. NRC that they will not be implementing the Order.

You must ensure that your staff and your customers are aware that neither you nor any of your employees may have unescorted access to these materials, and that the implementation of the security measures (Increased Controls) issued to your customers is solely the responsibility of those customers.

In this regard, you must revise your internal procedure, "Sealed Source Transfers from Irradiation Devices – Standard Procedures," to incorporate this restriction. Specifically, Item 9 of that procedure instructs your staff to: "Obtain keys from customer and inform them that at this time you are taking responsibility for the source and request cooperation in the event of an emergency." This item must be revised to clearly state that you cannot take responsibility for the source with respect to the Implementation of the Increased Controls, when you are servicing sources or devices containing radioactive materials in Quantities of Concern, and must be escorted by the customer at all times for such activities.

In addition, any communications addressed to your customers in this regard must clearly inform them that for the purposes of implementing the Increased Controls, they retain the sole responsibility, and that you and your staff must be escorted at all times while accessing their radioactive materials in Quantities of Concern.

Please respond to this letter within thirty days of the date of this letter with a copy of your revised procedure and customer communications.

We wish to thank you and your staff for your cooperation during the inspection. If you have any questions, you may reach me at (714) 257-2028.

Sincerely,



Donelle Krajewski
Associate Health Physicist
Inspection, Compliance and Enforcement
Radiologic Health Branch
South RM ICE Office

Encl: Table 1: Radionuclides of Concern
FSME 06-104



K A N S A S

RODERICK L. BREMBY, SECRETARY

DEPARTMENT OF HEALTH AND ENVIRONMENT

KATHLEEN SEBELIUS, GOVERNOR

June 18, 2008

Richard Foss
FOSS THERAPY SERVICES INC
ALTA LOMA, CA 91701-4762

Dear Mr. Foss:

This refers to the inspection conducted by the undersigned on May 20 thru 21, 2008 of your activities and procedures under Kansas Reciprocity License number 2008-039.

Based on the results of the inspection there were no items of non-compliance with the Kansas Radiation Protection Regulations (KRPR's) and/or specific conditions of the above mentioned license for the area reviewed.

The courtesy and cooperation extended to the inspector by your staff was greatly appreciated. If you have any questions concerning this matter, please do not hesitate to contact this office at 296-1560.

Sincerely,

A handwritten signature in black ink, appearing to read "Jay Schalansky", written over a horizontal line.

Jay Schalansky
Environmental Scientist II
Bureau of Air & Radiation
Radiation Control Program
jschalansky@kdhe.state.ks.us

DIVISION OF ENVIRONMENT

Bureau of Air & Radiation

Radiation and Asbestos Control Section

CURTIS STATE OFFICE BUILDING, 1000 SW JACKSON ST., STE 310, TOPEKA, KS 66612-1366

Voice 785-296-1560

Fax 785-296-0984

<http://www.kdhe.state.ks.us/radiation>