

November 19, 2009

Dr. Kevan Crawford, PhD  
3781 S. 3145 E.  
Salt Lake City, Utah 84109-3744

Dear Dr. Crawford:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your letter addressed to the NRC Executive Director for Operations (EDO) dated June 26, 2009. You submitted a petition pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR), Section 2.206, "Enforcement Action Against NRC Non-power Reactor Licensee Idaho State University (R-110)." Furthermore, during a transcribed conference call that addressed the Petition Review Board (PRB) on September 1, 2009, you requested additional enforcement action that supplemented your letter to the EDO. Through the petition process you requested the following:

- 1) The reactor operating license should be suspended immediately. All continuing violations including the unresolved items from the 93-1 Notice of Violation (NOV) as well as the additional 20 concealed violations<sup>1</sup> must be reconciled with the regulatory requirements immediately.
- 2) The licensee should be fined for all damages related to the violations and cover-up of violations.
- 3) The licensee should be required to carry a 50-year \$50,000,000 bond to cover latent radiation injuries instead of covering these injuries with unreliable State budget allocations for contingency funds.
- 4) Every potential exposure and contamination victim should be identified through facility records, located, and informed of the potential risk to them and their families. The Medical Center in Pocatello, Idaho, should also be informed so that they may do the same. They should be informed of the entire range of expected symptoms. They should be informed of their right to seek compensation from the licensee.
- 5) The following should warrant immediate revocation of the operating license due to the inability of the licensee to account for, with documentation, controlled by-product nuclear materials that were:
  - a. Released in clandestine, undocumented shipments before August 4, 1993;

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<sup>1</sup> Page 9 from the June 26, 2009, petition letter to the (EDO) includes, "Violations Completely Concealed by the NRC"

- b. In possession of individuals not licensed to hold the materials, and were not certified to handle the materials;
  - c. Without proper 49 CFR Department of Transportation (49 CFR DOT) certified containers;
  - d. Without proper labeling for transport on public roads; and
  - e. Concealed via fraudulent Annual Operating Reports as defined in 18 United States Code 1001 (18 USC 1001) that were never amended even after NOV in 93-1.
- 6) It is recommended that the Broad Form License be permanently revoked.
  - 7) The licensee must publicly acknowledge that there was a loss of Special Nuclear Material control (SNM).
  - 8) The licensee must publicly acknowledge persons that served as an accessory to concealing unlawful distribution of controlled substances, fraud (both Annual Operating Reports and National Whistleblower Center), loss of control of SNM, and child endangerment.

The NRC's PRB convened to consider your requests for immediate effective orders. The PRB concluded that your petition and supplemental information provided during the transcribed phone conference, addressing the PRB on September 1, 2009, (accessed through the Agencywide Documents Access and Management Systems (ADAMS), Accession No. ML092650381) meets the criteria for review under 10 CFR 2.206, and would be accepted in part. Issues that were not accepted into the 2.206 petition process did not satisfy the criteria as specified in NRC Management Directive (MD) 8.11, "Review Process for 10 CFR 2.206 Petitions." In such instances: 1) The incoming correspondence does not ask for an enforcement-related action or fails to provide sufficient facts to support the petition, but simply alleges wrongdoing, violations of NRC regulations, or existence of safety concerns and/or, 2) The petitioner raises issues that have already been the subject of NRC staff review and evaluation, either on that facility, other similar facilities, or on a generic basis, for which a resolution has been achieved, the issues have been resolved, and the resolution is applicable to the facility in question. Additionally, your petition raises several concerns not within the jurisdiction of NRC.

The PRB's final recommendation is to accept for review, pursuant to 10 CFR 2.206, the following concerns in your petition:

- 1) Failure to conduct 10 CFR 50.59 safety review of the modification of the Controlled Access Area by the addition of an undocumented roof access for siphon breaker experiment implemented prior to 1991. The June 26, 2009, petition letter states this allowed random student access to the roof of the reactor room.

- 2) Release of controlled by-product nuclear materials in containers not certified in accordance with 10 CFR 71 for transport of such materials on public roads and not labeled with the required labeling.
- 3) Failure to require the reactor operator conducting the startup procedures to wear protective clothing to routinely remove the activated startup channel detector from the reactor core. The June 26, 2009, letter states that this was cited and mishandled in the 93-1 NOV.
- 4) Violation of 10 CFR 20 for the routine, unprotected handling of an unshielded neutron source.

Other concerns raised in your June 26, 2009, petition letter and transcribed phone call to the PRB on September 1, 2009, did not meet the criteria for review pursuant to 10 CFR Section 2.206.

On September 28, 2009, you were contacted via telephone and provided the initial recommendations of the PRB. Pursuant to NRC MD 8.11, you were afforded the opportunity to comment on the recommendations and to "provide any relevant additional explanation and support for the request in light of the PRB's recommendations." Through subsequent e-mail communication, you declined the opportunity for response to the recommendations of the PRB and to provide further information to support the petition request (ADAMS Accession Nos. ML092720460 and ML092720824).

As provided by 10 CFR 2.206, we will take action within a reasonable time on your concerns that the NRC accepted into the petition process. Greg Schoenebeck is the petition manager and can be reached at 301-415-6345.

Enclosed for your information is a copy of the notice that has been filed with the Office of the Federal Register. Also, enclosed for your information is a copy of MD 8.11, along with the associated brochures NUREG/BR-0200, "Public Petition Process," and NUREG/BR-0215, "Public Involvement in the Nuclear Regulatory Process," prepared by the NRC Office of Public Affairs.

Sincerely,

*/RA/*

Eric J. Leeds, Director  
Office of Nuclear Reactor Regulation

Enclosures:

1. *Federal Register* Notice
2. Transcript of Conference Call with the PRB
3. Redacted 10 CFR 2.206 Petition Request
4. MD 8.11
5. NUREG/BR-0200
6. NUREG/BR-0215

cc w/encl 2: See next page

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 Eric J. Leeds, Director  
 Office of Nuclear Reactor Regulation

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cc w/encl 2: See next page

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ADAMS Accession Nos. ML092800487 (Package), ML092800432 and ML092800399 (Acknowledgement Letter and *Federal Register* Notice), ML092650381 (Phone Transcript), ML050900248 (NUREG/BR-0200), ML092440721 (Incoming petition), ML041770328 (Management Directive 8.11), ML052640471 (NUREG/BR-0215) \*Via email

OFFICE	PM/PRTB	LA/PRTB	Tech Ed *	OGC *	DPR/PSPB	BC/PRTB	DD/DPR	D/NRR
NAME	GSchoenebeck	GLappert	CHsu	KSexton	TMensah	JEads	TBlount, (TMcGinty for)	ELeeds
DATE	10/8/09	10/26/09	11/6/09	11/2/09	11/9/09	11/5/09	11/12/09	11/19/09

Idaho State University

Docket No. 50-284

cc:

Idaho State University  
ATTN: Mr. Adam Mallicoat  
Reactor Supervisor  
Campus Box 8060  
Pocatello, ID 83209-8060

Idaho State University  
ATTN: Dr. Richard T. Jacobsen  
College of Engineering Dean  
Campus Box 8060  
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Idaho State University  
ATTN: Dr. Richard R. Brey  
Radiation Safety Officer  
Physics Department  
Box 8106  
Pocatello, ID 83209-8106

Toni Hardesty, Director  
Idaho Dept. of Environmental Quality  
1410 North Hilton  
Boise, ID 83606

Test, Research and Training  
Reactor Newsletter  
202 Nuclear Sciences Center  
University of Florida  
Gainesville, FL 32611

Enclosure 1

Federal Register Notice

ADAMS Accession No. ML092800399

Enclosure 2

Transcript (Redacted) of September 1, 2009,  
Teleconference

ADAMS Accession No. ML092650381

Enclosure 3

Redacted 10 CFR 2.206 Petition Requesting  
Enforcement Action Against Idaho State University  
(R-110)

ADAMS Accession No. ML092440721



Enclosure 4

Management Directive 8.11

Review Process for 10 CFR 2.206 Petitions

ADAMS Accession No. ML041770328

Enclosure 5

NUREG/BR-0200

Public Petition Process

ADAMS Accession No. ML050900248

Enclosure 6

NUREG-0215

Public Involvement in the Nuclear Regulatory  
Process

ADAMS Accession No. ML052640471