

August 4, 2015

EA-14-116

Bradley D. Bastow, D. O.
950 Blue Star Highway
Suite 1-2
South Haven, MI 49090

SUBJECT: ORDER IMPOSING CIVIL MONETARY PENALTY – \$7,000;
BRADLEY D. BASTOW, D. O.

Dear Dr. Bastow:

This refers to your letter dated December 6, 2014, in response to the U.S. Nuclear Regulatory Commission's (NRC) Notice of Violation and Proposed Imposition of Civil Penalty (Notice) sent as an enclosure to our letter dated November 6, 2014. The letter and Notice describe violations identified by NRC inspection. The NRC letter and Notice can be found in the NRC's Agencywide Documents Access and Management System (ADAMS) Accession No. ML14309A590. ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

To emphasize the importance of prompt identification and comprehensive correction of violations and compliance with NRC requirements, the NRC proposed a civil penalty of \$7,000. This proposal was made in accordance with the NRC Enforcement Policy, after considering the appropriate level of the violations and your status as a medical licensee. The NRC also assessed whether you should be given credit for either *Identification* or *Corrective Action* to adjust the base civil penalty.

In your response you acknowledged the basic facts in the Notice, although you characterized them as being "administrative deficiencies," and you noted that you had taken action to shut down your licensed activities, including modifying your license to place it in standby. You stated that the shutdown eliminated any safety significance of the issues and provided a "clear demonstration" of your commitment to correct deficiencies before continuing to operate the facility. You also acknowledged that not all the underlying issues had been corrected and committed to complete them prior to restart of licensed activities.

You requested that the NRC mitigate the civil penalty by awarding you *Corrective Action* credit, based on your overarching action to shut down your licensed activities. After consideration of your response, the NRC has concluded that *Corrective Action* credit remains inappropriate. As stated in the NRC Enforcement Policy, *Corrective Action* credit is designed to encourage licensees to: (1) take the immediate actions necessary upon discovery of a violation that will restore safety, security, and compliance with the license, regulations, or other requirements; and (2) develop and implement (in a timely manner) the lasting actions that will not only prevent recurrence of the violation at issue, but will be appropriately comprehensive, given the significance and complexity of the violation, to prevent occurrence of violations with similar root causes. While you took an action to restore safety by placing your license in standby, you have not yet restored compliance with your license and NRC regulations, nor have you addressed lasting actions to prevent recurrence. Furthermore, the NRC lacks evidence that you recognize

the significance of the identified violations, the need to correct past problems and the importance of complying with NRC requirements in the future.

Additionally, you requested complete mitigation of the remaining civil penalty based on financial hardship. You provided a statement about your current finances indicating a high debt load, without significant assets. In a telephone call in mid-December 2014, the NRC requested that you provide a basis for the financial hardship request. On January 6, 2015, your attorney informed the NRC that you would not be able to supply any basis information for several months. To date, we have not received any information.

After consideration of your response, and the lack of supporting financial information, we have concluded that mitigation of the civil penalty is not warranted at this time. Specifically, based on no additional information being provided, the NRC concluded that its civil penalty fee structure already takes into account the size of your operation, the overall severity of the issues, and your corrective actions to date. We also considered the purpose of the civil penalty, as described above. Therefore, at this time, the NRC has no basis to reduce the civil penalty. Accordingly, the NRC hereby serves the enclosed Order on Bradley D. Bastow, D. O., imposing a civil monetary penalty in the amount of \$7,000. Within 30 days of the date that the enclosed Order is issued you must respond to the Order by either: (1) paying the civil penalty in accordance with Section IV of the Order and informing the NRC that payment has been made; or (2) requesting a hearing in accordance with Section V of the Order.

You may request that the NRC relax or rescind the Order in accordance with Section IV of the Order, if sufficient basis to describe financial hardship is provided. The NRC would consider sufficient financial information as being: statements from banks or other creditors concerning the status of any loans or outstanding debt; tax returns or statements from the U.S. Internal Revenue Service or the State of Michigan, as to the status of your taxes; and a certified statement from your accountant, as to the status of income and assets to offset any debts. The information must be in an independently auditable form and must provide clear indication of your assets in comparison to your debts. Additionally, you may also request relaxation or rescission of the Order if you elect to voluntarily terminate your NRC license.

We will review the effectiveness of your corrective actions during a subsequent inspection.

In accordance with Title 10 of the *Code of Federal Regulations* (10 CFR) Section 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your response will be made available electronically for public inspection in the NRC Public Document Room and from ADAMS. To the extent possible, your response should not include any personal privacy or proprietary information, so that it can be made available to the public without redaction. If personal privacy or proprietary information is necessary to provide an acceptable response, please review and follow the instructions in 10 CFR 2.390(b)(1)(i) for marking the original response. If you request withholding of such information, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information). You should also provide a second, redacted, copy that deletes the personal privacy or proprietary information.

B. Bastow

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The NRC includes significant enforcement actions on its Web site <http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>.

Sincerely,

/RA/

Patricia K. Holahan, Director
Office of Enforcement

Enclosures:

1. Order Imposing Civil Monetary Penalty
2. NUREG/BR-0254 Payment Methods

cc: w/enclosure 1: State of Michigan
w/enclosure 1 & 2: Philip Troy, Esq.

Docket No. 030-35710
License No. 21-32316-01

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Sincerely,

/RA/

Patricia K. Holahan, Director
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ADAMS Package: ML15181A040

ADAMS Accession Number: ML15181A050

***Concurrence via e-mail**

OFFICE	RIII	RIII	RIII	RIII	NMSS
NAME	PLougheed	AMcCraw	PLouden <i>/RA/ by JLara for</i>	JHeck	*PHenderson
DATE	02/24/2015	02/26/2015	02/26/2015	03/10/2015	03/18/2015
OFFICE	OGC	OE	RIII	RIII	OE
NAME	*MScott <i>/RA/ by DCylkowski for</i>	*NHilton <i>/RA/ by TMarenchin for</i>	RSkokowski	CPederson	PHolahan
DATE	03/27/2015	04/07/2015	05/22/2015	05/26/2015	08/4/2015

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