

DCB

DEC 29 1989

Case Western Reserve University
ATTN: Agnar Pytte, Ph.D.
President
2040 Adelbert Road
Cleveland, OH 44106

License No. 34-00738-04

Gentlemen:

This refers to the investigation performed by the Nuclear Regulatory Commission (NRC) Office of Investigations (OI) regarding allegations that your former Radiation Safety Officer (RSO) directed a subordinate to falsify records and that Case Western Reserve University management intentionally failed to notify the NRC of their knowledge of the allegation against the RSO. This also refers to the investigation by the Department of Labor (DOL) regarding the alleged improper termination of the subordinate's employment.

The results of the NRC investigation are summarized in the enclosed synopsis (Case No. 03-87-021). The investigation concluded that your former RSO directed the Manager, Environmental Affairs, to falsify documents normally generated to show compliance with NRC requirements. Regarding those investigation results, we have concluded for the following reasons that further NRC action is not necessary at this time.

1. Although your former RSO instructed a subordinate to falsify records, the subordinate did not carry out that instruction.
2. Your former RSO was terminated by the University.
3. In 1987, in response to safety and regulatory problems with the implementation of your licensed programs, you established and implemented a regulatory improvement program including increased management attentiveness to your radiation safety activities which should assist in precluding similar events from recurring.
4. Based on a followup inspection conducted in 1988 and an NRC management site visit conducted in February 1989, your regulatory improvement program appears successful.

We have no further questions regarding those actions by your former RSO.

The investigation also concluded that several of your managers knew and were investigating the activities of your former RSO at the time the NRC was meeting with your managers to determine whether Case Western Reserve University should be allowed to continue operations under your NRC license and did not notify the NRC of this situation. However, we have concluded this failure to notify was not done to deceive the NRC. Your management's communications with the NRC

9001080127 891229
REG3 LIC30
34-00738-04 PDC

FEA
LESA
11

DEC 29 1988

have been frequent and candid during implementation of the regulatory improvement program. We have no further questions on this matter.

Regarding the alleged improper termination of the subordinate who was directed to falsify records, that individual filed an employment discrimination complaint with the Department of Labor (DOL), and the original conclusion of the DOL Area Director regarding that allegation was that discrimination had occurred. The matter was subsequently conciliated without adjudication or a finding by the Secretary of Labor. Based on our review of the record developed by the Labor Department and your June 9, 1988 letter responding to our letter of May 11, 1988 on the subject, we cannot conclude that employee discrimination as described in 10 CFR Part 30.7 occurred. Because you have terminated employment of your former RSO and have taken strong actions to ensure that employees feel free to bring forward safety concerns, we plan no further action on this matter.

We will continue to monitor your licensed activities including your regulatory improvement program during future inspections.

In accordance with 10 CFR 2.790 of the NRC's "Rules and Practices," Part 2, Title 10, Code of Federal Regulations, a copy of this letter and the enclosure will be placed in the NRC Public Document Room.

We will gladly discuss any questions you may have relative to this letter or the referenced material.

Sincerely,

Original signed by
A. Bert Davis

A. Bert Davis
Regional Administrator

Enclosure: Synopsis of
Investigation Report 3-87-021

cc w/enclosure:
DCD/DCB (RIDS)

bcc w/enclosure:
J. Lieberman, OE
OI File No. 3-87-021
AMS No. RIII-87-A-0157

RIII
Muller/jh
Sreniawski
12/27/89

RIII
Mett
Berson
Grobe
12/27/89

RIII
Norelius
12/29/89

RIII
Paperiello

RIII
Davis
12/29/89

SYNOPSIS

On December 15, 1987, the NRC Region III (RIII) Administrator requested an investigation after receiving an allegation that the Radiation Safety Officer (RSO) of a broad scope NRC byproduct licensee, Case Western Reserve University (CWRU), had directed an employee to falsify or manufacture sealed source leak test records and radioisotope laboratory surveys. Further, the investigation was to determine if officials at CWRU intentionally failed to notify the NRC of this allegation.

In October 1987, on three separate occasions, the RSO, who was also the Director of the CWRU Security and Environmental Affairs Department, directed the Manager, Environmental Affairs, to falsify the leak test records and lab surveys. The Manager admitted that, due to a grossly understaffed office, he was unable to conduct the semiannual lab surveys and leak tests on a timely basis. The Manager claimed that the RSO was aware of the inadequate staff problem and failed to approve the hiring of more personnel.

The RSO claimed the Manager, Environmental Affairs failed to inform him of the discrepancies of the radiation safety program and denied instructing the Manager to falsify records. The Manager brought the allegations to the attention of the CWRU administration. After hearing from both the RSO and the Manager, the CWRU administration could not determine which of the parties were being truthful. The CWRU administration decided to offer a resignation package to the Manager, citing the Manager and RSO could no longer work together. The Manager did not accept the resignation package.

On November 30, 1987, CWRU administration officials met with the NRC:RIII staff during an enforcement conference and did not notify the staff of the allegation. The administration officials felt the matter was of a personnel nature, and since there was no evidence of which party was telling the truth, the officials did not want to impugn either party's character.

On January 15, 1988, the Manager was again offered a resignation package. He refused the conditions and was terminated by CWRU. The manager subsequently filed a complaint with the U.S. Department of Labor (DOL), and DOL found on behalf of the Manager. The Manager was reinstated to his position on March 11, 1988.

The NRC Office of Investigations concluded that the RSO directed the Manager, Environmental Affairs, to falsify or manufacture leak test records and semi-annual radioisotope lab surveys. The investigation also concluded that while the CWRU administration did not intentionally fail to notify the NRC about the allegation, the CWRU officials used extremely careless judgment in not voluntarily telling the NRC about the violation.