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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

SERVED DEC 15 1993

Robert M. Lazo, Chairman
Harry Foreman
Ernest E. Hill

In the Matter of

ADVANCED MEDICAL SYSTEMS, INC.
One Factory Row
Geneva, Ohio 44041

Docket No. 30-16055-CivP-R

ASLBP No. 93-682-01-CivP-R

(Civil Penalty)

December 14, 1993

MEMORANDUM AND ORDER

On September 30, 1993 the Commission issued CLI-93-22 which reversed this Board's summary disposition of one violation as set forth in LBP-91-9, 33 NRC 212 (1990) and remanded to the Board "for further proceedings consistent with this order all issues related to that violation." (Slip Opinion at 1).

In LBP-91-9, the Board concluded that no genuine issue of material fact existed with regard to whether AMS failed to comply with the provisions of Section 20.201(b) prior to two entries into a hot cell on November 6 and 21, 1984. The

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Board's reasoning was based on several facts: there was a substantial underestimation of actual doses received during those entries; on the days of the entries only a hand held survey instrument was used at the door of the hot cell to determine estimated exposure rates; on the days of the entries a remote probe used to detect and remove radioactive pellets was uncalibrated.

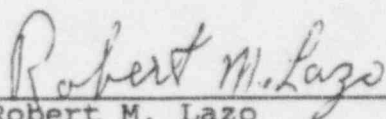
In remanding this issue, the Commission provides guidance that outlines the direction the Board must now take. The Board is directed to "consider not only the result from the radiation level readings but also the procedures AMS used to survey for radiation hazards." (Slip Opinion at 18). "[T]he scanning for pellets [is to be] considered when determining if a genuine issue remains regarding the adequacy of the survey." (Slip Opinion at 20). "[S]ection 20.201 requires consideration of more than just quantitative measurements of radiation levels [i]t also requires consideration of physical surveys of the location of materials and equipment." Id.

Moreover, the Commission directs the Board "before commencing with any evidentiary hearing on this matter, [to] direct the parties to address the question of whether, in light of our findings on appellate review, a genuine issue remains regarding the adequacy of AMS' survey." (Slip Opinion at 21).

In deference to the Commission's instructions, the Staff shall file its motion regarding the adequacy of the AMS survey and the possible termination of this proceeding with the Board by close of business, January 14, 1994. AMS shall respond with its answer and any motion by close of business, January 28, 1994.¹

IT IS SO ORDERED.

For the Atomic Safety and
Licensing Board


Robert M. Lazo
ADMINISTRATIVE JUDGE

Bethesda, Maryland
December 14, 1993

¹The Commission stated that its decision to remand Violation 2 to the Licensing board may ultimately necessitate a modification of the severity level and/or penalty amount, if the staff fails to prove the occurrence of Violation 2. (Slip Opinion at 36). Therefore, the Commission remanded the issue of the appropriateness of the severity level and penalty amount to the Licensing Board for further proceedings consistent with the disposition of Violation 2. Id. Accordingly, this issue will be taken up separately from and subsequently to the filing of motions regarding Violation 2, if necessary.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of

ADVANCED MEDICAL SYSTEMS, INC.

Docket No.(s) 30-16055-CIVP

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB MEMO & ORDER (LBP-93-26) have been served upon the following persons by U.S. mail, first class, except as otherwise noted and in accordance with the requirements of 10 CFR Sec. 2.712.

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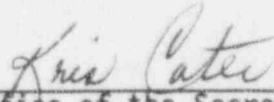
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Docket No.(s)30-16055-CIVP
LB MEMO & ORDER (LBP-93-26)

Dated at Rockville, Md. this
15 day of December 1993


Office of the Secretary of the Commission