

United States Senate

WASHINGTON, DC 20510-5002

August 7, 1990

James R. Curtiss
Commissioner
Nuclear Regulatory Commission
Washington, D.C. 20555

Dear Jim:

I would like to take this opportunity to bring to your attention the concerns of my constituent, Mr. Bill Fraser, who is President of the High Mountain Inspection Service (HMIS), a radiography service company in Wyoming.

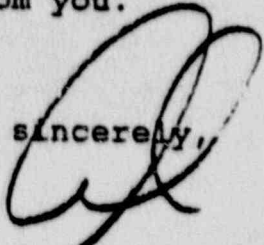
Enclosed for your review is a copy of a letter I received from Mr. Fraser in which he outlines in detail and with great clarity the circumstances under which HMIS was issued a Notice of Violation and Proposed Imposition of Civil Penalty by the Nuclear Regulatory Commission. As noted in the enclosed letter, HMIS was charged with violations which were caused solely by the actions of individual radiography employees. However, the press release which the NRC issued failed to mention the fact that the NRC did not find any fault with HMIS' radiation safety program. This is an especially significant omission, considering the impact this negative publicity could have on HMIS' business.

I believe that Mr. Fraser has expressed some very valid and legitimate concerns about the treatment of HMIS by the NRC. I would like to call to your attention four specific requests made by Mr. Fraser on pages three and four of the enclosed letter. I would also ask that this situation be further reviewed and that careful consideration be given to each of these requests.

Thank you in advance for your cooperation with this matter. I look forward to hearing from you.

With best personal regards,

Most sincerely,



Alan K. Simpson
United States Senator

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PDR ORG NE ED
PDC

AKS/mvk
Enclosure

cc: Bill Fraser, High Mountain Inspection Service
Casper office

High Mountain

Inspection Service, Inc.

P.O. Box 656 Mills, Wy 82644

(307) 472-9062

Quality Inspection

July 30, 1990

REPLY TO: P.O. Box 656
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Casper, Wy 82601
TELEPHONE: 307-472-9062 WY
1-800-332-3521 CA

The Honorable Alan K. Simpson
United States Senate
Washington, D.C. 20510

Sir:

High Mountain Inspection Service, Inc. (HMIS), an industrial radiography service company, believes that it is being treated unfairly by the U.S. Nuclear Regulatory Commission (NRC) and seeks your assistance to obtain reasonable relief from their actions.

The U.S. Nuclear Regulatory Commission Region IV submitted to High Mountain Inspection Service, Inc. on July 23, 1990 a cover letter issuing a Notice of Violation and Proposed Imposition of Civil Penalty (NRC Letter dated July 23, 1990 signed by Robert D. Martin and Notice of Violation and Proposed Imposition of Civil Penalty enclosed). On July 24, 1990 the NRC Office of Governmental and Public Affairs Region IV issued the enclosed copy of a press release pertaining to the proposed fine.

Industrial radiography is a highly competitive business and the incomplete context of the press release adversely affects the viability and continued operations of the company. The press release was initiated by NRC policy solely because of the proposed imposition of the civil penalty. The civil penalties were based on the violations correctly described in the press release (1) an assistant radiographer's failure to properly survey the radiography camera after two exposures; (2) the use of a radiography camera without the assistant radiographer being personally supervised by a radiographer; and (3) failure of the radiographer and assistant radiographer to recharge their pocket dosimeters at the start of their shift.

At the enforcement conference in Lakewood, Colorado on May 31, 1990 the NRC was informed that the assistant radiographer had been instructed by the radiographer "not to start shooting 'til I return" and prevented a note from the radiographer confirming that those instructions were given to the assistant radiographer (see paragraph 6 page 2 of the July 23, 1990 Martin letter). The radiographer had left to check security of the location before initiating radiography exposures. Therefore, violations 1 and 2 described above were solely the independent actions of an eager individual. A dosimeter charger was available on the radiography truck for their use, but when the radiography crew arrived at the job site at approximately 5:00 am on the morning of April 18, 1990 they were given a two hour window by the refinery personnel to complete the radiography exposures before the arrival of refinery workers at the site and hurried to complete their work. Although the radiography personnel should have taken time to recharge their pocket dosimeters they did record their initial readings, and failure to recharge their pocket dosimeters in no way adversely affected their pocket dosimeter and their capability to provide adequate personnel monitoring. The result would have been the same if they had recharged their pocket dosimeter to the initial recorded readings, and this procedure would have been acceptable pursuant to the regulations.

High Mountain Inspection Service, Inc. has spared no expense to provide proper training to radiography personnel, supplies personnel with excellent radiography and safety equipment, conducts frequent inspections of radiography personnel in the field, and holds periodic safety meetings to constantly remind radiography personnel of proper safety procedures. In fact the NRC states "Although NRC's inspections did not disclose inadequacies in HMIS's management of its radiation safety program, ..." (paragraph 3 page 1 Martin July 23, 1990 letter) confirming that NRC finds that HMIS has exercised their proper responsibility under regulations. Although the press release did acknowledge that HMIS did discipline the assistant radiographer and require that he complete additional training, it omits the crucial points that the NRC did not find any inadequacies in the management of HMIS's radiation safety program, nor that the violations were the independent actions of individuals contrary to proper instructions and established procedure.

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High Mountain Inspection Service, Inc. has been completely responsive to the NRC. At the enforcement conference on May 31, 1990 in Lakewood, Colorado HMIS presented in greater detail than that described above substantiation that the violations on which the proposed fine is based were the resulting actions of individuals that had been properly trained, qualified, equipped and instructed by HMIS management. NRC representatives at the meeting apparently could find no fault with this position and did not offer or suggest any alternate procedures or methods with which to avoid such violations. There are indications that the NRC representatives at the meeting were satisfied with the response given by HMIS, and that the fine was proposed by the Washington office because of the number of incidents in the industrial radiography industry where camera surveys were not performed. The May 31, 1990 enforcement conference was a costly and futile exercise to HMIS, since HMIS was provided no useful information and the NRC apparently ignored the information presented to them by HMIS.

Unless High Mountain Inspection Service, Inc. has failed in its responsibility to adequately administer its radiation safety program and has failed to take proper action against employees who are individually responsible for radiation safety violations, High Mountain Inspection Service, Inc. should be not subject to a fine for something that is beyond its reasonable control.

The U.S. Nuclear Regulatory Commission Regulatory Program does not provide a proper mechanism for handling regulatory violations which are solely caused by an individual radiography employee. A fine assessed against High Mountain Inspection Service, Inc. in no way penalizes the responsible individual; only the disciplinary action taken by HMIS against the individual affects the responsible party. If the responsible individual was terminated or chose to leave HMIS as a result of the disciplinary action he could go to work for another radiography company as a fully qualified radiographer in accordance with the NRC could take no action what-so-ever, thus perpetuating the problem. This is a efficiency in the regulations which was first brought to the attention of then the Atomic Energy Commission in approximately 1969-70.

High Mountain Inspection Service, Inc. respectfully requests your assistance on the following items:

1. A press release be issued by the NRC which clarifies that the proposed fine was caused by the independent actions of an individual and that the NRC found the HMIS radiation safety program to be more than adequate. It is further requested that

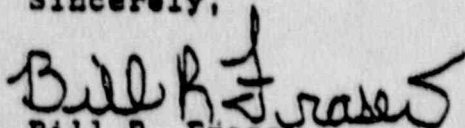
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this press release be coordinated with HMIS and that your office mitigate any dispute.

2. The NRC issue a letter to HMIS which adequately explains that HMIS administers a radiation safety program which more than adequately meets the requirements of the regulations and that NRC has no problem with the management of HMIS licensed activities. This letter will be used by HMIS to demonstrate to its current and prospective clients that it is a viable and responsible company.
3. The NRC refrain from imposing civil penalties and issuing press releases against HMIS, other radiography companies and all other NRC licensees when the violations are solely caused by an individual and the licensee management of their radiation safety program has been found adequate.
4. NRC institute regulations which provide for assessing violations against individual radiography personnel when their independent actions are the sole cause of the violations and they have been provided proper training, radiography equipment, safety equipment and instructions.

I am sure that you can appreciate that this matter is of the highest importance to the continued viability of this company, and I would greatly appreciate your time and efforts toward a reasonable resolution of these gravely precipitous actions by the U. S. Nuclear Regulatory Commission. Please contact me if any additional information or clarification is required, or if you or a member of your staff would like to discuss the issues with me or our radiation physicist and regulatory consultant.

Sincerely,


Bill R. Fraser
President

Enclosures:

- 1) July 23, 1990 NRC letter signed by Robert D. Martin
- 2) Notice of Violation and Proposed Imposition of Civil Penalty July 23, 1990
- 3) July 24, 1990 NRC Press Release
- 4) Casper Star Tribune press release July 28, 1990

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CONGRESSIONAL CORRESPONDENCE SYSTEM
DOCUMENT PREPARATION CHECKLIST

This checklist is to be submitted with each document (or group of Qs/As) sent for entering into the CCS.

1. BRIEF DESCRIPTION OF DOCUMENT(S) Hr to Simpson

2. TYPE OF DOCUMENT Correspondence Hearings (Qs/As)

3. DOCUMENT CONTROL Sensitive (NRC Only) Non-Sensitive

4. CONGRESSIONAL COMMITTEE and SUBCOMMITTEES (if applicable)

Congressional Committee
Subcommittee

5. SUBJECT CODES
(a) _____
(b) _____
(c) _____

6. SOURCE OF DOCUMENTS
(a) _____ 5520 (document name _____)
(b) Scan (c) Attachments
(d) _____ Rekey (e) _____ Other _____

7. SYSTEM LOG DATES
(a) 10/12/92 Date OCA sent document to CCS
(b) _____ Date CCS receives document
(c) _____ Date returned to OCA for additional information
(d) _____ Date resubmitted by OCA to CCS
(e) _____ Date entered into CCS by _____
(f) _____ Date OCA notified that document is in CCS

8. COMMENTS

