



Nuclear Fuel Services, Inc. 6000 Executive Boulevard, Suite 600, Rockville, Maryland
A Subsidiary of Getty Oil Company

(301)

March 12, 1973

Mr. Paul R. Nelson, Chief
Radiological and Environmental Protection
Branch
Directorate of Regulatory Operations -
Region I
U. S. Atomic Energy Commission
970 Broad Street
Newark, New Jersey 07102

Dear Mr. Nelson:

This is in response to your letter of February 5, 1973, which transmitted a copy of Inspection Report No. 50-201/72-03, hereinafter referred to as the "Report."

We request that the entire Report be withheld from publication in the public document room.

The pertinent regulation that requires publication in the public document room applies only to "final" documents. 10 C.F.R. 2.790(a). The Report is not a final document and is not within the purview of the regulation. On the contrary, the Report is more in the nature of an internal memorandum which serves to generate subsequent AEC action and documents, such as notices of violations, responses thereto, etc. It is these subsequent documents that are final documents.

The regulation also includes a specific exemption from publication in the public document room for investigatory files compiled for law enforcement purposes. 10 C.F.R. 2.790(a)(8). The Report is part of the AEC's investigatory files compiled for law enforcement purposes and would be within the scope of the foregoing exemption whether or not it is a final document.

The content of the Report illustrates that it is interim in nature, not a final document, and that it is a typical part of the AEC's investigatory files compiled for law enforcement purposes. This content includes various matters which are presented in an extremely sensitive way.

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Some of these matters are not predicated upon either follow-up or the slightest allegation of a violation of law, regulation, or safety practice. One of these matters appears to have been investigated and included in the Report only because of an anonymous letter while another is not even the result of our activities and is not within the AEC's jurisdiction or related to the proper exercise of its law enforcement duties, although the Report clearly implies the contrary. One of these matters appears to have been investigated and included in the Report only because we had furnished the AEC a prior informational letter with regard to our knowledge thereof (publication of these types of matters in the public document room might cause us to re-evaluate our policy of voluntarily furnishing the AEC information when not otherwise required by law to do so).

Undoubtedly, these matters constitute valuable information for future background or investigatory purposes and are properly a part of the AEC's investigatory files compiled in the normal course of business and retained as internal memoranda; but these matters are not appropriate for publication in the public document room. Publication of these matters in the public document room would be prejudicial to our best interests if for no other reason than that publication alone implies our wrongdoing and involvement.

Finally, the Report contains a number of errors, certain miscalculations, and misstatements. We have addressed each of these below in discussing specific items in the Report. We presume that verified errors and miscalculations will be corrected without further ado. We also hope that any misstatements will be as readily corrected; however, should any of these misstatements actually find their way into the public document room, we will be compelled to deny their accuracy and to rebut them by whatever means are available.

We now turn to a discussion of specific items in the Report to which we object, without withdrawing our request that the entire Report be withheld from publication in the public document room.

1. It is indicated that no other AEC personnel accompanied the principal inspector during the inspections (cover page). However, Mr. Kinney was also present during at least part of the inspections.

2. The origin of paragraph 17 of the Report is described as "licensee letter of September 12, 1972, to Directorate of Regulatory Operations, reporting external overexposure of nine contractor employees" (second page, under "Unusual Occurrences," item G). However, this is partially misleading and partially in error. First, it implies that the occurrence resulted from our activities and is subject to the jurisdiction of the AEC when, in fact, the occurrence resulted from a New York State licensee's activities, involved exposure to that licensee's radiation source, and is subject to the jurisdiction of New York State and not the AEC. The only reason that we furnished a letter concerning the occurrence to the AEC was that we happened to have significant knowledge thereof because it occurred on our site while the New York State licensee was making radiographs of welds, and we wished to voluntarily pass such information to the AEC out of courtesy. The only possible relationship the occurrence ever had with respect to our operations was to limit deployment of certain of the contractor employees on our site during the short term future. Second, although nine contractor employees were exposed to radiation as a result of the New York State licensee's activities, only three such employees received an overexposure, i.e., an exposure exceeding the applicable State of New York regulations. Additionally, we have made further comments concerning paragraph 17 of the Report as a whole below.

3. The title of W. A. Oldham (third page, under "Management Interview") should be corrected to read "Manager, Engineering and Construction."

4. The names and titles of various persons are wrong and should be corrected to read as follows: (fourth page, under "Persons Contacted," item 1):

T. K. Wenstrand	Manager, Health and Safety
D. Couhig	Assistant Operations Manager
R. T. Smokowski	Contract Administrator and Secretary of the Safety Committee
J. P. Maier	Health Physics Technician
M. Jump	Technical Services Manager
P. Burns	Process Engineer
R. May	Maintenance Manager

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11. Thirteenth page, item 14 continued, second full paragraph on that page, sentence 1 (unnumbered), should read "A nasal smear taken on 7/7/72 showed an activity of 5800 dpm, equivalent to 2.64 nCi." (Note: the change from microcuries to nanocuries).

12. Thirteenth page, item 15, paragraph 2 (unnumbered), sentence 2 (unnumbered), should read "On 6/23/72 SWP No. 5034 which authorized the removal of the cement bricks, showed dose rate measurements of 15 R/hr. whole body exposure, 40 R/hr. skin of whole body exposure, and 250 R/hr. extremity exposure."

13. Fourteenth page, item 15 continued (throughout), in every place "Ru-116" appears it should be changed to read "Ru-106," and in every place "ZrNi or ZrNi-95" appears it should be changed to read "ZrNb-95."

14. Fourteenth page, item 15 continued, second full paragraph on that page, sentence 3 (unnumbered), should read "Using the licensee's method with $7.74 \times 10^{+7}$ ml air/40 hr. work week instead of $5 \times 10^{+7}$ ml air/40 hr. work week, an exposure of 75.5 MPC hours or $1.89 \times$ MPC was obtained." (Note: the change in the sign for both exponents).

15. Fourteenth page, item 16, paragraph 1 (unnumbered), sentence 5 (unnumbered), should read "The records also indicate an extremity and skin exposure, for 5.25 years, of 11.7 rem." (Note: the change from "rad" to "rem").

16. Fourteenth page, item 16 (general), sets forth details concerning an investigation undertaken in response to an anonymous letter (see, the Report at page 2, item F) into the death of a former employee.

This employee was retired, was not on our premises at the time of his death, and did not die as the result of an injury suffered or disease incurred while on our premises. The employee's attending physician believed that the employee was advanced in age (72), smoked to an excess, and ultimately died of a malignancy unrelated to his prior employment with us (see, the Report at page 15). The employee's radiation exposure never exceeded the 1.25 rem quarterly limit set forth in 10 C.F.R. 20 during the whole of his employment, and his entire urinalysis and whole body counting record during the whole of his employment is without significance (see, the Report at pages 14 - 15). Thus, we see no legitimate interest in including all these details in the Report if it is to be published in the public document room, i.e., no public interest whatsoever in their disclosure. This again proves the wisdom of treating the Report as an internal memorandum and as part of the AEC's investigatory files compiled for law

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enforcement purposes, not subject to publication in the public document room. Indeed, the only reason that these details are in the Report appears to be the existence of the aforementioned anonymous letter. The death of employees and former employees who for all intents and purposes have died of natural causes unrelated to our activities are not routinely investigated, and we do not believe there is any intention to routinely investigate them in the future since we have numerous employees, all of whom must inescapably die for some reason at some time in the future. It seems very dangerous indeed to establish the precedent of publishing details of an employee's death in the public document room merely because of an anonymous letter which has proven demonstrably false or baseless.

We cannot take solace in the fact that if this item is published in the public document room, the details of the employee's death are exculpatory in nature. On the contrary, at present there is no connection or association between the employee's death and our activities. Publication of this item in the public document room will sow the seed of suspicion or raise the question of a connection or association between the employee's death and our activities for the very first time; and no matter how much the details are exculpatory in nature, some residue of suspicion or question will remain.

Finally, this item contains the statement that "Licensee representatives, interviewed, all stated that no suit at law was pending from any interested party" (see, the Report at page 15). We consider this statement very prejudicial to our best interests and believe that there is no jurisdictional concern of the AEC involved and no public right to know or be informed of such information.

17. Fifteenth page, item 17 (general). This item sets forth the details of an investigation into the exposure of certain contractor employees to an iridium source owned and being used by a New York State licensee to radiograph welds on our premises. Since neither our activities nor our radiation sources were involved, and the occurrence was the sole result of the activities of the New York State licensee, the occurrence is subject to the jurisdiction of New York State authorities, not the AEC. Thus, details of the occurrence should not be in the Report and the Report should be limited in content to matters within the jurisdiction of the AEC and related to the law enforcement duties of the AEC.

18. Sixteenth page, item 17 continued, third full paragraph on that page, sentence 2 (unnumbered). One of the contractor employees is quoted as saying, "Look what that thing did to me."

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We deny the accuracy of the foregoing quote. P. K. Morrow, Assistant Manager, Health and Safety, was present at all times during the conversations between the contractor employees and the AEC inspector and states that no contractor employee made the quoted statement or any statement similar in nature at any time.

19. Sixteenth page, item 17 continued, third full paragraph on that page, sentence 4 (unnumbered) states that "The blistered area on each finger was noted to be approximately 0.2 cm²." Our records indicate that the blisters were approximately 1.0 cm². (Note: This would reduce the result of the calculations in Exhibit B in the Report by a factor of 5.)

20. Sixteenth page, item 17 continued, fifth full paragraph on that page, sentence 2 (unnumbered), states that no one had previously informed the physician attending the contractor employees of the actual circumstances of the exposure at the time the physician was interviewed by the inspector.

We deny the accuracy of that statement. According to both parties involved, T. K. Wenstrand, Manager, Health and Safety, informed the physician, E. S. Rothschild, of the circumstances of the exposure before the physician ever made his initial examinations of these contractor employees on August 16, 1972.

21. Sixteenth page, item 17 continued, fifth full paragraph on that page, sentence 4 (unnumbered) states "After the employees left, the physician expressed the opinion that the blisters could represent a possible radiation syndrome, and that further expert evaluation was needed."

We deny the accuracy of that statement. According to the physician, he clearly informed the AEC inspector that it was his opinion that the contractor employee in all probability received the blisters in the routine performance of his work as a welder, i.e., in handling hot metal items.

22. Seventeenth page, item 17 continued, only paragraph on that page, sentence 2 (unnumbered), quotes one of our representatives (T. K. Wenstrand, Manager, Health and Safety) as saying that "He realized that the exposure rate (calculated for one of the contractor employees) was low but that he had no other sources of information to refer to" and the Report states that the inspector referred him to the Handbook of Health Physics, OSP-70, April, 1963, page 158, which shows a dose rate per curie Ir-192 at 1 cm. distance of 5,000 R/hr.

We deny the accuracy of that statement. According to Mr. Wenstrand, he never made such a statement and was never referred to the foregoing text.

23. Seventeenth page, item 17 continued, only paragraph on that page, sentence 4 (unnumbered), states that "The inspector calculated, using the same factor used by the licensee representative, a dose rate of 160 rads per second to the area of the finger involved." However, we do not believe that the inspector's calculations used the same techniques or factors as our representative used. Our representative, Mr. Wenstrand, used known data on the handling of radium needles corrected for curie quantities and the difference between exposure rates per curie as compared to the inspector's techniques seen in Exhibit B.

24. Seventeenth page, item 17 continued, only paragraph on that page, sentence 6 (unnumbered), states that "Employee No. 2 could have received a calculated exposure to a limited portion of his finger during 30 seconds handling time of 4,800 rad. However, in the first full paragraph on page 16, the Report specifically states that "Reenactment[of the handling at the time of occurrence] limited the handling time to 15 seconds." There appears to be an irreconcilable inconsistency within the Report.

25. Eighteenth page (Exhibit A), entitled "Calculations." The second set of calculations contains certain errors and should read as follows:

$$\text{ZrNb-95} = 3 \times 10^{-8} \text{ uCi/ml} \times 7.74 \times 10^{+7} \text{ ml} = 2.32 \text{ uCi or } 2320 \text{ nCi.}$$

$$\text{Ru-106} = 6 \times 10^{-9} \text{ uCi/ml} \times 7.74 \times 10^{+7} \text{ ml} = 0.46 \text{ uCi or } 460 \text{ nCi.}$$

$$\text{Sr-90} = 1 \times 10^{-9} \text{ uCi/ml} \times 7.74 \times 10^{+7} \text{ ml} = .0774 \text{ uCi or } 77.4 \text{ nCi.}$$

$$\text{Pu-239} = 2 \times 10^{-12} \text{ uCi/ml} \times 7.74 \times 10^{+7} \text{ ml} = 15.5 \times 10^{-5} \text{ uCi or } 0.155$$

26. Eighteenth page (Exhibit A), entitled "Calculations." The third set of calculations contains certain errors and should read as follows:

ZrNb-95	Ru-106	Sr-90	+ Pu-239	
611 + 544 nCi	22 + 19.6 nCi	0.5 nCi	.10 + .109	
<u>1155 nCi</u>	<u>41.6</u>	<u>0.5 nCi</u>	<u>0.209</u>	
2320	460	390	0.155	= 1.94 x 40
0.50	+	.09	0	1.94 x 40 = 77.5 MPC hrs

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27. Eighteenth page (Exhibit A), entitled "Calculations." In contrast with the inspector's calculations, our calculations are shown below:

$$\text{Zr-95} = (3 \times 10^{-8} \text{ uCi/ml})(7.74 \times 10^{+7} \text{ ml}) = 2.32 \text{ uCi} = 2320 \text{ nCi}$$

$$\text{Nb-95} = (1 \times 10^{-7} \text{ uCi/ml})(7.74 \times 10^{+7} \text{ ml}) = 7.74 \text{ uCi} = 7740 \text{ nCi}$$

$$\text{Ru-106} = (6 \times 10^{-9} \text{ uCi/ml})(7.74 \times 10^{+7} \text{ ml}) = 0.46 \text{ uCi} = 460 \text{ nCi}$$

$$\text{Sr-90} = (1 \times 10^{-9} \text{ uCi/ml})(7.74 \times 10^{+7} \text{ ml}) = 0.0774 \text{ uCi} = 77.4 \text{ nCi}$$

$$\text{Pu-239} = (2 \times 10^{-12} \text{ uCi/ml})(7.74 \times 10^{+7} \text{ ml}) = 15.5 \times 10^{-5} \text{ uCi} = 0.155 \text{ nCi}$$

Zr and Nb are in equilibrium, so we assumed that there were equal amounts of each.

$$\frac{1155}{2} = 578 \text{ nCi Zr-95 and } 578 \text{ nCi Nb-95}$$

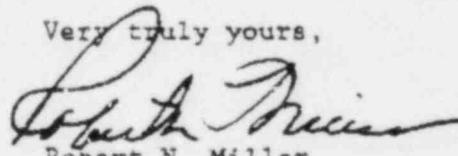
$$40 \text{ MPC hrs. } \left[\frac{578 \text{ nCi Zr-95}}{2320 \text{ nCi}} + \frac{578 \text{ nCi Nb-95}}{7740 \text{ nCi}} + \frac{41.6 \text{ nCi Ru-106}}{460 \text{ nCi}} + \frac{0.5 \text{ nCi Sr-}}{77.4 \text{ nCi}} \right. \\ \left. \frac{0.209 \text{ nCi of Pu-239}}{0.155 \text{ nCi}} \right] =$$

$$40 [0.25 + 0.075 + 0.09 + 0.006 + 1.35] \text{ MPC hrs.} =$$

$$40 [1.77] = 72 \text{ MPC hrs.}$$

The foregoing constitutes our major arguments for withholding the entire Report from publication in the public document room and points out specific items in the Report of which we are aware and to which we object. Should you have any questions or need for further information, please advise.

Very truly yours,



Robert N. Miller
President

RNM/bjd