

March 1, 1994

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
)
ONCOLOGY SERVICES CORPORATION) Docket No. 030-31765-EA
)
(Byproduct Material) EA No. 93-006
License No. 37-28540-01))

OSC'S SECOND SET OF INTERROGATORIES, REQUEST FOR
PRODUCTION OF DOCUMENTS AND REQUESTS FOR ADMISSIONS

Licensee, Oncology Services Corporation ("OSC"), serves the within the Second Set of Interrogatories, Request for Production of Documents and Requests for Admissions.

INTERROGATORIES AND REQUESTS FOR DOCUMENTS

1. Describe the expected testimony of Drs. Paperiello, Glenn, Shanbaky; Messrs. Dwyer, Czerwinsky, Delmedico; and Ms. Joustra and Ms. Henderson.
2. Why didn't the NRC require that the RSO maintain a regular, i.e., quarterly or semi-annual presence at each facility where licensed activities were conducted under the NRC license? Was such a possible requirement ever discussed by the NRC licensing staff and if so, list all individuals involved with said discussion and produce any and all documents related thereto.
3. Describe in detail what the "indications" were that Dr. Moylan allegedly made to Dwyer and Henderson that he had not read the terms and conditions of the license and that he was not aware that Dr. Cunningham was the RSO named on the license. Define the term "indication."

4. Has the NRC ever required a licensee, as a condition of its license, to commit to any type of corporate radiation safety communication. If so, please identify said license and produce a copy.

5. Identify any other action in which the NRC has alleged that a licensee failed to appropriately disseminate a corporate radiation safety communication. If any such actions exist, produce any and all documents relating to said failure.

6. Why doesn't the NRC require as a license condition appropriate corporate radiation safety communications for licensees.

7. For each alleged license condition and/or regulatory violation identified in the suspension order, identify the standard (prior to escalation or mitigation) corresponding severity level violation.

8. Distinguish between and define the terms "tasks" and "responsibilities."

9. Identify in specificity all prior cases "the Staff was generally aware of" where escalated enforcement action was taken for failure of the RSO and/or other management officials to exercise appropriate oversight and control over licensed activities and produce all relevant documents related thereto.

10. Identify in specificity all prior cases "the Staff was generally aware of" where escalated enforcement action was taken because the RSO attempted to delegate his responsibilities and produce all relevant documents related thereto.

11. Produce the agenda, any handouts, any notes and any existing videotapes for the NRC training (1984-1992) for Judith A. Joustra and NRC training (1980-1992) for Jenny M. Johansen previously identified by the Staff.

12. Produce Manual Chapter 2800 and Manual Chapter 87100 of the Inspection Manual.

13. Produce all documents relating in any manner to possible enforcement action against the licensee.

14. Identify the appropriate severity level violation for a "significant corporate management breakdown in the control of licensed activities."

15. Produce the resumes and/or CVs for Drs. Paperiello, Glenn, Shanbaky and Messrs. Dwyer, Czerwinsky and Delmedico.

REQUEST FOR ADMISSIONS

Please either admit or deny the following requests for admissions. If your response is anything other than an unqualified admission, provide a detailed explanation for your response.

1. The only specific regulation for HDR in Title 10 of the Code of Federal Regulations is at section 35.2.

RESPONSE:

2. Failure of the wall mounted survey meter did not occur on November 16, 1992 at IRCC.

RESPONSE:

3. Rudy Balko had used a hand held survey meter at IRCC prior to November 16, 1992.

RESPONSE:

4. Sharon Rickett had used a hand held survey meter at IRCC prior to November 16, 1992.

RESPONSE:

5. Greg Hay instructed Rudy Balko in the use of a hand held survey meter prior to November 16, 1992.

RESPONSE:

6. The OSC license did not require any level of frequency that the RSO conduct visits to each facility listed as a place of use.

RESPONSE:

7. No regulation or license condition was violated by Dr. Cunningham's failure to be physically present at the Lehighton facility for a period of 6 to 9 months.

RESPONSE:

8. 10 CFR 35.31(b) does not require a level of frequency with respect to the RSO being physically present at a facility listed as a place of use.

RESPONSE:

9. 10 CFR 35.59(d) does not require a level of frequency with respect to the RSO being physically present at a facility listed as a place of use.

RESPONSE:

10. 10 CFR 35.59(g) does not require a level of frequency with respect to the RSO being physically present at a facility listed as a place of use.

RESPONSE:

11. 10 CFR 35.59(i) does not require a level of frequency with respect to the RSO being physically present at a facility listed as a place of use.

RESPONSE:

12. 10 CFR 35.415(b) does not require a level of frequency with respect to the RSO being physically present at a facility listed as a place of use.

RESPONSE:

13. 10 CFR 35.21(a) does not require a level of frequency with respect to the RSO being physically present at a facility listed as a place of use.

RESPONSE:

14. 10 CFR 35.21(b) does not require a level of frequency with respect to the RSO being physically present at a facility listed as a place of use.

RESPONSE:

15. Regulatory Guide 10.8, Revision 2, appendix G does not specify either the manner or frequency of contact between the RSO and the users and workers.

RESPONSE:

16. OSC was under no regulatory obligation or regulatory requirement to notify the physicists at Exton and Lehighton of the November 16, 1992 IRCC event.

RESPONSE:

17. Failure by OSC to notify the physicists at Exton and Lehigh of the November 16, 1992 IRCC event does not constitute a violation of the license.

RESPONSE:

18. Failure by OSC to notify the physicists at Exton and Lehigh of the November 16, 1992 IRCC event does not constitute a severity level I, II, III, IV or V violation.

RESPONSE:

19. 10 CFR 35.21(a) does not require or define if and/or when appropriate corporate radiation safety communications should be made.

RESPONSE:

20. 10 CFR 35.21(b) does not require or define if and/or when appropriate corporate radiation safety communications should be made.

RESPONSE:

21. 10 CFR 19.12 does not require or define if and/or when appropriate corporate radiation safety communications should be made.

RESPONSE:

22. The term "significant corporate management breakdown in the control of licensed activities" is undefined in Title 10 of the Code of Federal Regulations.

RESPONSE:

23. It is possible that Dr. Moylan did not state that he was unaware that Dr. Cunningham was the RSO listed on the license and that he had not read the license.

RESPONSE:

24. Paula Salanitro was aware that Dr. Cunningham was the RSO listed on the license.

RESPONSE:

25. The NRC Staff is aware that IRCC personnel have stated that during the December 9 and 10, 1991 training session, Omnitron personnel did not state the possibility of or provide any training regarding emergency procedures to be followed in the event of a source wire break.

RESPONSE:

26. The NRC approved Dr. Cunningham as the RSO for the OSC license.

RESPONSE:

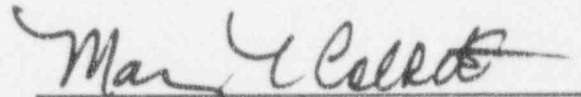
27. The NRC understood that HDR treatments would be provided at six locations under the OSC license.

RESPONSE:

28. Prior to November 16, 1992 the NRC never questioned whether Dr. Cunningham could act as an RSO for all six locations listed on the OSC license.

RESPONSE:

Respectfully submitted,



Marcy L. Colkitt
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Dated: March 1, 1994

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF THE SECRETARY
DOCKETING AND SERVICE
BRANCH

In the Matter of)	
)	
ONCOLOGY SERVICES CORPORATION)	Docket No. 030-31765-EA
)	
(Byproduct Material)	EA No. 93-006
License No. 37-28540-01))	

CERTIFICATE OF SERVICE

I hereby certify that a copy of OSC's Second Set of Interrogatories, Request for Production of Documents and Requests for Admissions in the above-captioned proceeding has been served on the following via U.S. Mail this 1st day of March 1994 unless otherwise noted:

G. Paul Bollwerk, III, Chairman
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dr. Peter S. Lam
Administrative Judge
Atomic Safety & Licensing Board
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Dr. Charles N. Kelber
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Office of the Secretary
U.S. Nuclear Regulatory Commission
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ATTN: Docketing and Service Section

Atomic Safety & Licensing Board
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Marjorie Collett