

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSIONBEFORE THE ATOMIC SAFETY AND LICENSING BOARD

IN THE MATTER OF)
INDIANA REGIONAL CANCER CENTER)
Docket No. 030-30485
License No. 37-28179-01
EA No. 93-284

RESPONSE OF JAMES E. BAUER, M.D., M. DIV.
TO DEMAND FOR INFORMATION

James E. Bauer, M.D., M. Div. files this Response To The
NRC's Demand For Information and states as follows:

1. James E. Bauer, M.D. is licensed to use radioactive materials at the Indiana Hospital, Indiana, PA and at Miner's Hospital, Spangler, PA.
2. The Answer Of James E. Bauer, M.D., M. Div. And Indiana Regional Cancer Center To November 16th Order Suspending License No. 37-28179-01 Of Indiana Regional Cancer Center is incorporated herein by reference and made a part hereof.
3. A copy of the November 11, 1993 inspection report is incorporated herein by reference, relied upon and attached hereto as exhibit 1.
4. The RSO and authorized user, Dr. Bauer, is a highly competent board certified radiation oncologist and radiologist with in excess of thirty years experience in the safe use of radioactive materials.
5. The November 11, 1993 inspection revealed:
 - (A) No radiation safety violations;
 - (B) Full training in the Quality Management Program had been provided;
 - (C) The strontium-90 source was secured and the storage area was posted as required;

(D) The licensee had available two Victoreen 410 meters. Both meters were calibrated and the inspectors verified that the staff had been trained on how to perform check source readings to ensure operability of the meters;

(E) The inspector noted that the licensee performed ambient dose rate surveys around the source storage location approximately quarterly;

(F) The inspector noted that all sealed source leak tests and inventories of the strontium-90 sealed source were conducted as required;

(G) The inspector noted that personnel had available the required personnel dosimetry;

(H) The inspector determined that the licensee followed the Quality Management Program when performing the strontium-90 treatments;

(I) No individuals were harmed in any manner;

(J) There was absolutely no risk to public health and safety;

(K) Dr. Bauer believed he was permitted to use the strontium-90 source for superficial skin lesion treatment;

(L) Dr. Bauer fully and truthfully responded to all questions; and

(M) Dr. Bauer provided all requested information to the inspectors on November 11, 1993.

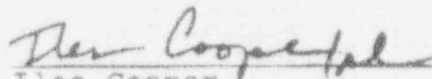
6. The use of strontium-90 for the treatment of superficial skin lesion is medically appropriate.
7. The NRC has not even attempted to levy any civil fine for the alleged "failure to do an adequate survey in November 1992" by Dr. Bauer. To now assert that said contested and undetermined "issue" is a "fact" is unconstitutional, improper, a denial of due process, unethical and in violation of all applicable regulations. Further, the NRC has admitted that Dr. Bauer did not violate any license condition in November 1992 by allegedly failing to do an adequate survey. The only basis on which the NRC relies is the general language of 10 CFR 20.201(b). See exhibit 2 hereto.

8. The licensee's past performance has been exemplary, as the 1989 inspection clearly indicated.
9. The NRC has stated, without any adequate basis, that the public safety was threatened by the conduct of the licensee and Dr. Bauer. Such is not the case and strict proof thereof will be demanded at the hearing.
10. There exists no basis for the NRC to believe that Dr. Bauer will not comply with all Commission requirements. To the contrary, he has in the past and will at all times in the future continue to use his best efforts to fully comply with all Commission requirements.
11. To bar Dr. Bauer from any future licensed activities would constitute a travesty of injustice to Dr. Bauer, the patients who rely on him and society in general. Dr. Bauer is a highly competent and ethical practitioner, radiation safety officer and authorized user.
12. There has never been any finding that Dr. Bauer willfully or negligently violated any federal regulations or that he improperly uses radioactive materials.

13. Dr. Bauer is both willing and able to assure the Commission that all NRC regulations have been, are being and will continue to be followed.

WHEREFORE, there exists no basis, at law or in fact, to bar Dr. James E. Bauer from the use of any radioactive material. Dr. Bauer reserves the right to supplement this response as necessary and appropriate at a later date.

Respectfully submitted,



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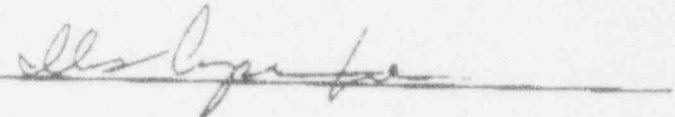
Counsel for James E. Bauer, M.D.

Dated: January 5, 1994

Inspection Report Was Attached As Exhibit 1

VERIFICATION

Based upon the representations of James E. Bauer the foregoing is true and accurate to the best of my knowledge, information or belief.

A handwritten signature in cursive script, appearing to read "James E. Bauer", is written over a solid horizontal line.

VERIFICATION

The foregoing is true and correct to the best of my information, knowledge or belief.

James E. Bauer, Jr.