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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

OFFICE OF SECRETARY
DOCKETING & SERVICE
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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))	

NRC STAFF'S MOTION TO COMPEL RESPONSES TO STAFF'S
INTERROGATORIES AND REQUESTS FOR ADMISSIONS AND PRODUCTION
OF DOCUMENTS AND NRC STAFF MOTION FOR PROTECTIVE ORDER

INTRODUCTION

Pursuant to 10 C.F.R. § 2.740(f) of the Commission's regulations, the NRC staff (Staff) hereby moves the Atomic Safety and Licensing Board (Board) in the above captioned proceeding to compel Oncology Services Corporation (Licensee) to respond to the Staff's interrogatories, requests for admissions, and requests for production of documents served on December 27, 1993. In addition, the Staff moves the Board, pursuant to 10 C.F.R. § 2.740(c), for a protective order.

BACKGROUND

On December 27, 1993, the Staff served "NRC Staff's Interrogatories and Request for Production of Documents and Request for Admissions" (Staff's Discovery Requests) on the Licensee. The Licensee filed, on January 3, 1994, "Licensee's First Set of Interrogatories, First Request for Production and First Request for Admissions Directed to NRC Staff" (Licensee's Discovery Request). On January 10, 1994, the Board issued

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an "Order (Postponing Discovery Responses Pending Prehearing Conference)." In its Order, the Board suspended the deadlines for both parties to respond to the pending discovery requests until further order of the Board. Order at 2.

A prehearing conference was held in this proceeding on January 26, 1994. On February 1, 1994, the Board issued an "Order (Prehearing Conference Order)" (Order). In its Order, the Board required the Staff to file on February 7, 1994, a list of those interrogatories and requests for production of documents and admissions set forth in the Staff's Discovery Requests which do not involve matters that are or could be the subject of agency criminal referrals to the Department of Justice. Order at 3. In accordance with the Board's Order, the Staff filed "NRC Staff Identification of Staff Interrogatories Not Related to the Department of Justice Referrals."¹ On February 18, 1994, the Staff filed its response to the Licensee's Discovery Request. The Licensee filed, on March 1, 1994, "OSC's Second Set of Interrogatories, Request for Production of Documents and Requests for Admissions." On March 4, 1994, the Licensee filed its response to the Staff's Discovery Requests. "Response of Oncology Services Corporation to NRC Staff's

¹ The Staff's February 7, 1994 filing inadvertently omitted discovery requests which, in fact, were not the subject of the matter referred and accepted by the Department of Justice for further criminal investigation. The Staff informed the Licensee that those discovery requests inadvertently omitted should be answered. See Letter to Marcy L. Colkitt, General Counsel, Oncology Services Corporation, from Catherine L. Marco, Counsel for NRC Staff, dated February 14, 1994. The Licensee's response to the Staff's discovery requests, however, failed to respond to those Staff discovery requests inadvertently omitted. Because of the confusion caused by this error, the Staff is not seeking to compel responses to those requests and will, instead, file the requests, again, at a later date.

First Set of Interrogatories and Request for Production of Documents and Requests for Admissions" (Licensee's Response).²

DISCUSSION

I. STAFF'S MOTION TO COMPEL RESPONSES TO ITS DISCOVERY REQUESTS

A. Introduction

The Staff moves the Board, pursuant to 10 C.F.R. § 2.740(f), to compel the Licensee to respond to the Staff's Discovery Requests. To the extent that the Licensee provides responses to the Staff's discovery requests, these responses are evasive or incomplete. They are, therefore, to be considered to be failures to respond. 10 C.F.R. § 2.740(f). In addition, the Licensee's general objections to the Staff's discovery requests are, on their face, without merit and, thus, do not provide a basis for its failure to provide full and complete responses to the Staff's discovery requests. The Licensee's specific objections to certain of the Staff's Discovery Requests are similarly without merit.

In addition, although not specifically provided for in either section 2.740(f) or section 2.742 of the Commission's regulations, the Staff moves the Board for either an order compelling adequate responses to its requests for admissions or an order deeming certain of the Licensee's responses to the Staff's requests to be admissions. Commission

² Since the filing of the Licensee's Response, the Staff has received a third discovery request from the Licensee. "Request for Production of Documents Dated March 8, 1994."

case law has held that where the Commission's rules are silent, the federal rules of civil procedure may be used as guidance in applying the Commission's discovery rules. *Toledo Edison Co.* (Davis-Besse Nuclear Power Station), ALAB-300, 2 NRC 752, 760 (1975). Rule 36 of the Federal Rules of Civil Procedure provides that:

[t]he party who has requested the admission may move to determine the sufficiency of the answer or objections. Unless the court determines that an objection is justified, it shall order that an answer be served. If the court determines that an answer does not comply with the requirements of this rule, it may order either that the matter is admitted or that an amended answer be served.

Rule 36(a). Since the Commission's regulations are silent as to what action may be taken when there is an objection to a request for admission, or when the answer is believed by the requesting party to be insufficient, the Board should apply the federal rules as guidance and entertain motions to compel with respect to requests for admissions.

Finally, the Licensee's failure to make a good faith effort to respond to the Staff's Discovery Request establishes good cause for the issuance of a protective order delaying any responses by the Staff to any further discovery requests by the Licensee until such time as the Licensee provides complete responses to the Staff's Discovery Requests.

B. Relevant Legal Standards Regarding Discovery

It is the responsibility of each party to provide complete, explicit and responsive answers to interrogatories. *Boston Edison Co.*, (Pilgrim Nuclear Generating Station, Unit 2), LBP-75-30, 1 NRC 579, 583 (1975). A party should not need to sift through documents or other materials in order to obtain complete answers to its discovery requests. *Commonwealth Edison Co.* (Byron Nuclear Power Station, Units 1 and 2),

ALAB-678, 15 NRC 1400, 1421 n.39 (1982). Similarly, a response to an interrogatory is insufficient if the response merely consists of a cite to a vast amount of unspecified documents. *Id.* In addition, answers to interrogatories must be answered under oath or affirmation and be signed by the person making them. 10 C.F.R. § 2.740b.

Similarly, if a party chooses to object to an interrogatory, the objection must be direct and specific, for the burden of persuasion is on the objecting party to show that the interrogatory should not be answered. *Pilgrim*, LBP-75-30, 1 NRC at 583. If a party objects to the production of documents based on a privilege, such claims of privilege must be specifically asserted with respect to particular documents. *Long Island Lighting Co.* (Shoreham Nuclear Power Station), LBP-82-82, 16 NRC 1144, 1153 (1982).

C. Licensee's General Objections Are Without Merit

The Licensee's general objections are without merit and, therefore, do not excuse the Licensee's failure to respond to the Staff's Discovery Requests. The Licensee first asserts, without any support, that it cannot provide more complete answers to the Staff's Discovery Requests because certain transcripts have not been made available to it.³ Licensee's Response at 2. The Licensee, therefore, objects to all discovery related in any way to alleged statements and/or representations made by personnel to either the Incident Investigation Team (IIT) or to the NRC Office of Investigations (OI) that form any basis for the suspension order. *Id.*

³ The Licensee also makes an inaccurate statement regarding whether certain IIT transcripts were reviewed for accuracy. *Id.* at 2 n.1. The Licensee claims that it believes that certain IIT transcripts were not reviewed for accuracy. In fact, most transcript of the interviews of OSC personnel by the IIT were reviewed for accuracy.

The Licensee's general objection is without merit. The License has an obligation to interview its own officers and employees in order to respond to the Staff's Discovery Requests. See *Texas Utilities Generating Co.* (Comanche Peak Steam Electric Station, Units 1 and 2), LBP-79-05, 9 NRC 193, 195 (1979). The Licensee fails to explain why it is unable to interview its employees, either former or otherwise, in order to provide more complete answers to the Staff's Discovery Requests. The Licensee has been able, without the aid of any transcripts in the NRC's possession, to file an answer to the Order Suspending License (Suspension Order), respond to the I/T report, and to file pleadings before the Board regarding what it considers to be the appropriate issues in this proceeding. All of these Licensee filings discuss similar facts and issues to those facts and issues which are the subject of the Staff's Discovery Requests. The Licensee's general objection regarding the NRC transcripts should not be sustained.

The Licensee also objects to providing any responses to the Staff's Discovery Requests because the "NRC Staff has refused to provide critical and relevant answers posed [sic] by the licensee regarding specifics of the 'criminal referrals.'" *Id.* at 2. The Licensee's second general objection is also unfounded. On February 7, 1994, the Staff provided, in response to the Board's Order, a status report on the criminal referrals to the Department of Justice. "NRC Staff Status Report on Criminal Referrals to the Department of Justice" (Staff's Status Report). On the same date, the Staff enumerated those discovery requests which did not involve the subject matter of any matters warranting further criminal investigation. "NRC Staff Identification of Staff Interrogatories Not Related to the Department of Justice Referral" (Staff Identification).

The Staff's Status Report stated that two matters were referred to DOJ, one was accepted as warranting further criminal investigation, the other matter was declined. Staff's Status Report at 2. In a letter dated February 24, 1994, Staff Counsel informed Licensee's Counsel that since the second matter was declined, the subject of that matter should have no impact on the Licensee's ability to respond to the Staff's Discovery Requests. In the Licensee's Response, the Licensee has failed to provide any reason why it cannot respond to the Staff's Discovery Requests without knowing the subject of the declined matter. The Licensee's objection cannot provide a basis for not responding to the Staff's Discovery Requests.

Finally, the Licensee objects to "any request to the extent it seeks to obtain privileged information, work product material or irrelevant information/responses." Licensee's Responses at 2. The Licensee makes this general objection, but it fails to identify which of the Staff's Discovery Requests implicate any privileges. Accordingly, the Licensee's objection does not provide a basis for failing to answer any interrogatory or request for the production of documents. *See Shoreham*, LBP-82-82, 16 NRC 1144, 1153.

In summary, the Licensee's general objections are without merit and unsupported. To the extent that the Licensee relies on these objections in its refusal to provide complete answers to any of the Staff's Discovery Requests, addressed below, its objections should not be sustained, and the Staff's Motion to Compel should be granted.

D. Staff Motion to Compel with Respect to the Licensee's Responses to Specific Staff Discovery Requests

The Licensee's responses to specific Staff discovery requests are discussed below. As demonstrated below, the Licensee's objections are without merit and the answers it provides are incomplete and evasive. Accordingly, the Staff's Motion to Compel with respect to the specific discovery requests discussed below should be granted.

A. General Interrogatories

INTERROGATORY 3

Identify any persons who have knowledge of the facts concerning:

- a. the incident which occurred at the Indiana Regional Cancer Center (IRCC) on November 16, 1992 in which a 3.7 curie iridium-192 source was left inside a patient receiving High Dose Rate (HDR) Brachytherapy treatment using an Omnitron 2000 HDR Afterloader (hereinafter referred to as the "November 16, 1992 incident");
- b. the training provided to the personnel at the IRCC, Mahoning Valley Cancer Center, Lehigh, Pa (Lehigh facility), and the Exton Cancer Center, Exton, Pa (Exton facility) prior to December 8, 1992,
- c. the activities Dr. David Cunningham relative to his duties as Radiation Safety Officer (RSO) for the Licensee, during the period from August 3, 1991 until December 18, 1992.
- d. any other fact touching upon the matters in controversy herein, including, but not limited to all persons from whom the Licensee has obtained or attempted to obtain written or oral statements, whether or not the Licensee intends to call that person as a witness in this proceeding.

LICENSEE'S RESPONSE

See NRC transcripts.

ARGUMENTS IN SUPPORT OF THE STAFF'S MOTION TO COMPEL A
RESPONSE TO INTERROGATORY A3

The Licensee's response is incomplete. The Staff is entitled to a complete and specific answer to the above interrogatory, without the need to sift through documents or other material to obtain a complete answer. *Byron*, ALAB-678, 15 NRC at 1421 n.39. *See also Pilgrim*, LBP-75-30, 1 NRC at 583. The Licensee's mere reference to unidentified "NRC transcripts" is clearly an inadequate response. *Byron*, ALAB-678, 15 NRC at 1421 n.39. In addition, the Licensee's counsel, who provided the only affidavit certifying that the answers contained in the Licensee's Response were true and correct, has no basis to assert that the answer to the Staff's interrogatory is contained in the "NRC transcripts" since she was not present at all of the transcribed interviews and, by her own admission, does not have copies of the transcripts. Further, it is the Licensee who is in the best position to respond to the above interrogatory and should, therefore, be required to provide whatever information it possesses or knows about with respect to this interrogatory.

INTERROGATORY 4

Identify all documents the Licensee intends to rely on in this proceeding.

LICENSEE'S RESPONSE

Unknown at this time. Notwithstanding the foregoing, OSC may rely on 000001-001893, AM002501-AM002821, AM002960-AM003466, E000001-E001309, H000001-H003815, I000001-I000695, J0001, M000001-M001308, 0000001-0011250 and X000001-X000015, as well as any other documents produced by the Licensee to the NRC, including the IIT Team and OI.

INTERROGATORY 5

Provide copies of the documents you have listed in response to Interrogatory A4 above.

LICENSEE'S RESPONSE

The Licensee has not responded to the above request for production, other than its response to interrogatory 4.

INTERROGATORY 8

Identify all documents, computer programs or computer files that created, processed, retrieved, modified, updated, or stored any information concerning:

- a. the November 16, 1992 incident;
- b. the training provided to the personnel at the IRCC, Lehighton facility, and the Exton facility prior to December 8, 1992,
- c. the activities Dr. David Cunningham relative to his duties as RSO for the Licensee, during the period from August 3, 1991 until December 18, 1992.
- d. any other fact(s) touching upon the matters in controversy herein, whether or not the Licensee intends to rely upon such facts in this proceeding.

LICENSEE'S RESPONSE

Unknown at this time. Notwithstanding the foregoing, see documents identified in response to interrogatory 4A.

ARGUMENTS IN SUPPORT OF THE STAFF'S MOTION TO COMPEL RESPONSES TO INTERROGATORIES A4, A5, AND A8

The Licensee's responses to the above interrogatories are incomplete. The Staff is entitled to know, at least, the title of the documents referenced by the long list of numbers provided by the Licensee. *See Byron*, ALAB-678, 15 NRC at 1421 n.39.

B. Interrogatories Relative to the Violation of 10 C.F.R. 19.12 Training Requirements of the IRCC Personnel

INTERROGATORY 1

Prior to November 16, 1992, did the radiation therapy technologists at the IRCC:

- a. know how to use a survey meter;
- b. know when to use a survey meter; or
- c. know how to interpret the readings of a survey meter to determine the presence of a radioactive source?

If the answer to either a, b, or c, above is in the affirmative, how does the Licensee intend to establish this fact(s)?

LICENSEE'S RESPONSE

See NRC transcripts of IRCC personnel. It is unknown at this time how the Licensee will put in its evidence.

ARGUMENTS IN SUPPORT OF THE STAFF'S MOTION TO COMPEL RESPONSES TO INTERROGATORY B1

The Licensee's response is incomplete. The Staff is entitled to a complete and specific answer to interrogatory 1, without the need to sift through documents or other material to obtain a complete answer. *Byron*, ALAB-678, 15 NRC at 1421 n. 39. The Licensee's mere reference to "NRC transcripts of IRCC personnel" is clearly an inadequate response. *Id.* In addition, the Licensee's counsel, who provided the only affidavit certifying that the answers contained in the Licensee's Response were true and correct, has no basis to assert that the answer to the Staff's interrogatory is contained in the "NRC transcripts of IRCC personnel" since she was not present at all of the transcribed interviews and, by her own admission, does not have copies of the transcripts.

To the extent that the Licensee's response relates to its general objections regarding the production of NRC transcripts, the Licensee's objection is without merit. The Licensee has failed to establish the need to review the NRC transcripts prior to adequately responding to interrogatory 1. See the Staff's discussion of the Licensee's general objection, *supra*.

INTERROGATORY 2

Describe the training provided to the personnel at the IRCC by the Licensee, its agents, contractors, or assignees, prior to November 16, 1992, including:

- a. a list of subjects covered;
- b. the approximate length of time devoted to each subject; and
- c. the dates when this training was provided.

LICENSEE'S RESPONSE

The Licensee objects to this interrogatory because it is vague and ambiguous with respect to the word "training," and is therefore unanswerable.

INTERROGATORY 3

If the training discussed in response to Interrogatory B2, above, was provided by an employee of the Licensee, identify the employee who provided the training. Provide a job description for this employee and all supporting documentation, including, but not limited to, the employee's employment contract.

LICENSEE'S RESPONSE

See response to interrogatory 2.

INTERROGATORY 4

If the training discussed in response to Interrogatory B2, above, was provided by a non-employee of the Licensee, identify:

- a. the person or persons who provided the training; and
- b. the relationship between the person or persons identified and the Licensee.

Provide all supporting documentation, including, but not limited to, any contract between the Licensee and the person identified above. Explain how the Licensee ensured that such training was in fact provided and provide all documentation supporting this explanation.

LICENSEE'S RESPONSE

See response to interrogatory 2.

INTERROGATORY 5

Identify those IRCC personnel who received the training discussed in response to Interrogatory B2, above.

LICENSEE'S RESPONSE

See response to interrogatory 2.

INTERROGATORY 6

Did the training discussed in response to Interrogatory B2, above, include:

- a. the correct use of a survey meter;
- b. when to use a survey meter; and
- c. how to interpret the readings of a survey meter to determine the presence of a radioactive source?

Provide all documentation the Licensee intends to rely upon in this regard.

LICENSEE'S RESPONSE

See response to interrogatory 2.

ARGUMENTS IN SUPPORT OF STAFF'S MOTION TO COMPEL RESPONSES TO INTERROGATORIES B2, B3, B4, B5, AND B6

The Licensee's objections to interrogatories 2-6 are unfounded. The Licensee claims the word "training" used in the above discovery requests is vague and ambiguous. There is nothing ambiguous about the Staff's use of the word "training." The Licensee itself used the word "training" in its application for a materials license, dated June 1, 1990 when it committed to provide "training" to its personnel. The Licensee has also used the term "training" a number of times in its Answer to the Suspension Order, dated February 8, 1993 (Answer) and in its "Response of Licensee Oncology Services Corporation to NRC Staff's Motion to Dismiss Certain Issues Proposed by Oncology Services Corporation," dated September 16, 1993 (Licensee Response to Motion to Dismiss). See Answer at 3, 9, 10, 12, 13, 18, 19; Licensee Response to Motion to Dismiss at 12, 14, 16. The Licensee's objections to these interrogatories clearly indicate that the Licensee has failed to make a good faith effort to respond to the Staff's discovery requests.

INTERROGATORY 7

Describe the use of the survey meter by radiation therapy technicians Sharon Rickett and Rudy Balko at the IRCC in 1991, when the wall mounted room radiation monitor (PrimeAlert) was undergoing replacement. Explain:

- a. for what purpose the survey meter was used;
- b. how many times each radiation therapy technologist used the survey meter; and
- c. on what date(s) was the survey meter used.

LICENSEE'S RESPONSE

See NRC transcripts.

INTERROGATORY 8

Describe the use of the survey meter by radiation therapy technicians Sharon Rickett and Rudy Balko at the IRCC in 1992, when a source was delivered at the IRCC. Explain:

- a. for what purpose the survey meter was used;
- b. how many times each radiation therapy technologist used the survey meter; and
- c. on what date(s) was the survey meter used.

LICENSEE'S RESPONSE

See response to interrogatory 7.

INTERROGATORY 9

Describe the training provided, if any, to the IRCC personnel by the physicist, Greg Hay, prior to November 16, 1992. Include:

- a. a list of subjects covered;
- b. the approximate length of time devoted to each subject; and
- c. the dates of when this training was provided.

Provide all supporting documentation.

LICENSEE'S RESPONSE

See response to interrogatory 7.

INTERROGATORY 10

Did the physicist provide the training discussed in response to Interrogatory B9, above pursuant to his job responsibilities or employment contract? If yes, how did the Licensee ensure that such training was provided? Provide all supporting documentation, including, but not limited to, the physicist's job description and employment contract.

LICENSEE'S RESPONSE

See response to interrogatory 7.

INTERROGATORY 11

Identify those IRCC personnel who attended the training discussed in response to Interrogatory B9, above.

LICENSEE'S RESPONSE

See response to interrogatory 7.

INTERROGATORY 12

Did the training discussed in response to Interrogatory B9, above include:

- a. the correct use of a survey meter;
- b. when to use a survey meter; and
- c. how to interpret the readings of a survey meter to determine the presence of a radioactive source?

Provide all supporting documentation.

LICENSEE'S RESPONSE

See response to interrogatory 7.

ARGUMENTS IN SUPPORT OF THE STAFF'S MOTION TO COMPEL RESPONSES TO INTERROGATORIES B7, B8, B9, B10, B11, AND B12

The Licensee's responses to interrogatories 7, 8, 9, 10, 11, and 12 are incomplete. The Staff is entitled to complete and specific answers to the above discovery requests, without the need to sift through documents or other material to obtain a complete answer. *Byron*, ALAB-678, 15 NRC at 1421 n.39. The Licensee's mere reference to unidentified "NRC transcripts" is clearly an incomplete response to the above six interrogatories. *Id.*

In addition, the Licensee's counsel, who provided the only affidavit certifying that the answers contained in the Licensee's Response were true and correct, has no basis to assert that the answers to the Staff's interrogatories are contained in the "NRC transcripts" since she was not present at all of the transcribed interviews and, by her own admission, does not have copies of the transcripts.

To the extent that the Licensee's responses relate to its general objection regarding the NRC transcripts, the Licensee's objection is without merit. The Licensee has failed to establish the need to review the NRC transcripts prior to adequately responding to the above interrogatories. See the Staff's discussion of the Licensee's general objection, *supra*. The Licensee, itself, asserted the facts, without the aid of the NRC transcripts, in its Answer, that Rudy Balko and Sharon Rickett had used a survey meter on the two dates specified in interrogatories 7 and 8. Answer at 3, 10. The Licensee further, in its Answer, asserted that its personnel at the IRCC had been trained. *Id.* at 8. There is no reason why the Licensee is now unable to provide adequate responses to the above interrogatories, which relate to these facts, without the aid of the NRC transcripts.

INTERROGATORY 13

Describe the training provided to the IRCC personnel by Omnitron prior to November 16, 1993. Did this training include:

- a. the correct use of a survey meter;
- b. when to use a survey meter; and
- c. how to interpret the readings of a survey meter to determine the presence of a radioactive source?

Provide all supporting documentation.

LICENSEE'S RESPONSE

See NRC transcripts of IRCC personnel.

ARGUMENTS IN SUPPORT OF THE STAFF'S MOTION TO COMPEL A
RESPONSE TO INTERROGATORY B13

The Licensee's response to the above discovery request is incomplete. As previously discussed, the Staff is entitled to a specific response to its discovery request, without the need to sift through documents. *Byron*, ALAB-678, 15 NRC at 1421 n.39. The Licensee's mere reference to "NRC transcripts of IRCC personnel" is clearly an inadequate response. *Id.* Further, the Licensee's counsel, who provided the only affidavit certifying that the answers contained in the Licensee's Response were true and correct, has no basis to assert that the answer to the Staff's interrogatory is contained in the "NRC transcripts of IRCC personnel" since she was not present at all of the transcribed interviews and, by her own admission, does not have copies of the transcripts.

To the extent that the Licensee's response relates to its general objection regarding the NRC transcripts, the Licensee fails to demonstrate why it is unable to provide a more specific response without the aid of the NRC transcripts. See the Staff's discussion of the Licensee's general objection, *supra*. The Licensee previously raised the issue of the training its personnel received from Omnitron in its Answer and in other filings with the Board. Answer at 3, 9-10. See, e.g., Licensee Response to Motion to Dismiss at 14. There is no reason, therefore, why the Licensee is unable now to provide adequate responses to the Staff's discovery requests.

INTERROGATORY 14

Did the Licensee rely on any previous formal education received by its personnel at the IRCC for radiation safety training, including:

- a. the correct use of a survey meter;
- b. when to use a survey meter; and
- c. how to interpret the readings of a survey meter to determine the presence of a radioactive source?

If the answer to either a, b, or c above is yes, identify those IRCC personnel who received the previous formal education relied upon by the Licensee for radiation safety training. For each person identified, identify the institution from which the training was received.

LICENSEE'S RESPONSE

The Licensee hired qualified personnel who the Licensee understood to be well-educated. See NRC transcripts of IRCC personnel for description of education and training and resumes previously produced to the NRC.

ARGUMENTS IN SUPPORT OF THE STAFF'S MOTION TO COMPEL A RESPONSE TO INTERROGATORY B14

The Licensee's response is incomplete and evasive. The Licensee has not answered the Staff's interrogatory regarding whether the Licensee relied upon previous formal education received by its personnel at the IRCC for radiation safety training, although it does appear that the Licensee understood what the Staff meant by the term "training" in this interrogatory.

As for the Licensee's reference to "NRC transcripts of IRCC personnel" for description of education and training, the Staff is entitled to a specific answer to this discovery request, without the need to sift through documents. *Byron*, ALAB-678, 15 NRC at 1421 n.39. The Licensee's mere reference to "NRC transcripts of IRCC

personnel" is clearly an inadequate description. *Id.* Further, the Licensee's counsel, who provided the only affidavit certifying that the answers contained in the Licensee's Response were true and correct, has no basis to assert that the answer to the Staff's interrogatory is contained in the "NRC transcripts of IRCC personnel" since she was not present at all of the transcribed interviews and by her own admission, does not have copies of the transcripts.

To the extent that the Licensee's response relates to its general objection regarding the NRC transcript, the Licensee's objection is without merit. The Licensee has previously asserted that the IRCC personnel were well-educated. Answer at 3-4. There is no reason why the Licensee is unable to provide a description of the formal education and training its personnel received on which it relied. *See* the Staff's discussion of the Licensee's general objection, *supra*.

C. Interrogatories Relative to the violation of 10 C.F.R. 20.201(b) survey requirement

INTERROGATORY 1

Explain how each of the following facts, if true, demonstrates that the IRCC personnel's, including⁴ Dr. James E. Bauer's, actions were reasonable under the circumstances to evaluate the extent of radiation hazards that may be present, pursuant to 10 C.F.R 20.201(b) on November 16, 1992. Provide the names of all individuals who can testify that these facts are true and provide all supporting documentation, to the extent that this information has not already been provided in response to another interrogatory. If information has been provided in response to another interrogatory, reference the responsive interrogatory or interrogatories.

⁴ The Licensee misquotes the Staff's interrogatory as it was modified in response to the Board's request to identify those interrogatories which do not involve those matters referred to DOJ. This interrogatory was modified to *exclude* any reference to Dr. Bauer's conduct on November 16, 1992. Staff Identification at 8.

- a. The NRC approved Omnitron training, operating manual and/or emergency procedures.
- b. All treating personnel at IRCC including the Medical Director/Authorized User, the physicist and both technologists received training from Omnitron using the Omnitron emergency procedures and Omnitron operating manual.
- c. Dr. Bauer, as well as all Omnitron-trained Authorized Users, were trained pursuant to Omnitron's course that the source wire could not break.
- d. The treating personnel at IRCC followed the emergency procedures in the Omnitron manual.
- e. The physician/authorized user systematically reviewed the redundant Omnitron internal safety check alerts.
- f. The Omnitron 2000 High Dose Rate (HDR) afterloader was defective.
- g. Reliance by IRCC personnel on specific features of the Omnitron was reasonable on November 16, 1992.
- h. The Licensee was not informed by Omnitron and the Licensee did not know otherwise of the possibility of deterioration despite Omnitron's knowledge of deterioration of the source wire due to a chemical reaction resulting from its packaging.
- i. The treating personnel relied on the internal safety devices of the Omnitron 2000 which due to multiple machine failures incorrectly indicated source retraction.
- j. The Omnitron 2000 design, manufacturing and/or warning defects was a cause of the November 16, 1992 incident in which the source wire broke.
- k. The November 16, 1992 incident at IRCC occurred because of an unanticipated failure of the Omnitron 2000 retraction mechanism and a reliance by the authorized user on Omnitron procedures which did not anticipate or cover this emergency.
- l. Prior to November 16, 1992, the emergency scenario that the Omnitron source wire breaks was neither expected nor reasonably anticipated by the Licensee in general and the IRCC treating personnel in particular.

LICENSEE'S RESPONSE

See NRC transcripts, IIT Report, FDA findings and NRC-Omnitron report. Based on the above, the conduct of the IRCC personnel was at all times reasonable. See also documents identified in response to interrogatory 4A.

ARGUMENTS IN SUPPORT OF THE STAFF'S MOTION TO COMPEL A RESPONSE TO INTERROGATORY C1

The Licensee's response to interrogatory 1 is incomplete. The Staff requested an explanation of how the above facts indicate that the IRCC personnel actions, on November 16, 1992, were reasonable under the circumstances to evaluate the extent of radiation hazards that may be present, pursuant to 10 C.F.R. § 20.201(b). The mere statement that based on the above, the conduct of the IRCC personnel was at all times reasonable fails to respond to the Staff's interrogatory and is self-serving. In addition, the Staff is entitled to a detailed answer to this interrogatory and not just mere references to unidentified "FDA findings and NRC-Omnitron report," as well as to "NRC transcripts." *By m. ALAB-678, 15 NRC at 1421 n.39.* Also, the Licensee's counsel, who provided the only affidavit certifying that the answers contained in the Licensee's Response were true and correct, has no basis to assert that the answer to the Staff's interrogatory is contained in the "NRC transcripts" since she was not present at all of the transcribed interviews and, by her own admission, does not have copies of the transcripts.

To the extent that the Licensee's response relates to its general objection regarding the NRC transcripts, the Licensee's objection is without merit. *See* the Staff's discussion of the Licensee's general objection, *supra*. The facts cited in interrogatory 1 were facts the Licensee asserted demonstrated that the IRCC personnel's actions were reasonable.

Answer at 3, 5-7, 8, 14, 18; Joint Prehearing Report at 9-12, 14 (proposed issues e, m, n, u, v, z, aa, ab, ac, ad, ag, ax); Licensee's Response to Motion to Dismiss at 14-16. There is no reason, therefore, for the Licensee to be unable, now, to provide an adequate response to the Staff's interrogatory which would explain the Licensee's assertions.

INTERROGATORY 2

What other facts, other than the ones listed above and the ones pertaining to the actions of Dr. James E. Bauer,⁵ does the Licensee intend to rely upon to demonstrate that the IRCC personnel complied with 10 C.F.R. § 20.201(b)?

LICENSEE'S RESPONSE

The Licensee has failed to respond to this interrogatory.

ARGUMENTS IN SUPPORT OF THE STAFF'S MOTION TO COMPEL A RESPONSE TO INTERROGATORY C2

The Licensee has failed to provide any response or assert any objection to interrogatory 2. The Staff is entitled to a complete response. A party against whom discovery is sought may not simply ignore a discovery request. Pursuant to the Commission's regulations, the party must either provide a specific answer to the interrogatory or object to it. 10 C.F.R. § 2.740b(b).

INTERROGATORY 3

Describe the Omnitron emergency procedures contained in the Omnitron manual which the IRCC personnel allegedly followed on November 16, 1992. Provide a copy of the manual and emergency procedures.

⁵ As indicated by the underlined text, this interrogatory was modified in accordance with the Board's Order. Staff Identification at 9.

LICENSEE'S RESPONSE

See Omnitron manual and emergency procedures that were previously produced to the NRC.

ARGUMENT IN SUPPORT OF THE STAFF'S MOTION TO COMPEL A RESPONSE TO INTERROGATORY C3

The Licensee's response to this interrogatory is incomplete. The Staff requested a description of the Omnitron emergency procedures which the Licensee claimed, in its Answer, were followed on November 16, 1992. Answer at 5. The Licensee's reference to the Omnitron manual and emergency procedures fails to provide the requested description. The Staff is entitled to a detailed, specific response to this interrogatory without the need to sift through documents. *Byron*, ALAB-678, 15 NRC at 1421 n.39. A reading of the Omnitron manual, in addition, would not provide a description of which emergency procedures the IRCC personnel allegedly followed on November 16, 1992. Also, in order to avoid confusion and misunderstanding, the Staff is entitled to know the title of the Omnitron manual and emergency procedures referenced by the Licensee in its response.

INTERROGATORY 6

Describe the internal safety alerts allegedly checked by the IRCC Authorized User on November 16, 1992. Did any of these alerts measure actual radiation levels?

LICENSEE'S RESPONSE

See NRC transcripts of IRCC personnel. See Omnitron manual.

ARGUMENTS IN SUPPORT OF THE STAFF'S MOTION TO COMPEL A
RESPONSE TO INTERROGATORY C6

The Licensee's response to the above interrogatory is incomplete. The Staff requested a description of the internal safety alerts that the Licensee claimed the IRCC Authorized User allegedly checked on November 16, 1992. Answer at 5. In addition, the Staff asked if any of these alerts measure actual radiation levels. The Staff is entitled to a specific, detailed answer to its request, without the need to sift through various document, which may, or may not, contain the requested information. *Byron*, ALAB-678, 15 NRC at 1421 n.39. Further, the Licensee's counsel, who provided the only affidavit certifying that the answers contained in the Licensee's Response were true and correct, has no basis to assert that the answer to the Staff's interrogatory is contained in the "NRC transcripts of IRCC personnel" since she was not present at all of the transcribed interviews and, by her own admission, does not have copies of the transcripts.

The Licensee's reference to the Omnitron manual and IRCC personnel transcripts fails to provide the requested description. To the extent that the Licensee's response relates to its general objection regarding the need for the NRC transcripts, the Licensee's objection is without merit. *See* the Staff's discussion of the Licensee's general objection, *supra*. In addition, the facts cited in interrogatory 6 were facts the Licensee asserted in its Answer. Answer at 5. There is no reason, therefore, for the Licensee to be unable, now, to provide an adequate response to the Staff's interrogatory.

INTERROGATORY 7

Describe how the Omnitron 2000 was defective.

LICENSEE'S RESPONSE

See FDA, NRC, and IIT reports.

ARGUMENTS IN SUPPORT OF THE STAFF'S MOTION TO COMPEL A RESPONSE TO INTERROGATORY C7

The Licensee's response is incomplete. The Staff is entitled to a specific response to interrogatory 7. *Byron*, ALAB-678, 15 NRC at 1421 n.39. The Licensee fails even to identify to which FDA and NRC (other than the IIT report) reports it is referring.

INTERROGATORY 8

Identify where in the Omnitron Manuals and Sales Literature the fact that the source wire could not break was emphasized. Provide copies of the referenced documents.

LICENSEE'S RESPONSE

See Omnitron materials previously produced to the NRC.

ARGUMENTS IN SUPPORT OF THE STAFF'S MOTION TO COMPEL A RESPONSE TO INTERROGATORY C8

The Licensee's response to interrogatory 8 is incomplete. The Licensee fails to identify which Omnitron materials it previously produced to the NRC it is relying upon in response to this interrogatory and where in these materials the requested information is found. The Staff is not required to sift through documents in order to find the Licensee's answer to this interrogatory. *Byron*, ALAB-678, 15 NRC at 1421 n.39. The Licensee should identify, specifically, to which Omnitron materials it is referring and provide the appropriate page references. *Id.*

INTERROGATORY 14

Describe any and all occurrences, prior to November 16, 1993 in which the room radiation monitor at the IRCC malfunctioned. Provide the dates and description of each malfunction. Did any of these occurrences involve the room radiation monitor flashing red, indicating the presence of radiation, where no radiation was present? As a result of these malfunctions, describe what steps were taken to ensure that the malfunction would not reoccur, including whether any communication or training was provided to the IRCC personnel regarding each malfunction. Provide all supporting documentation.

LICENSEE'S RESPONSE

See NRC transcripts of IRCC personnel.

ARGUMENTS IN SUPPORT OF STAFF'S MOTION TO COMPEL A RESPONSE TO INTERROGATORY C14

The Licensee's response to the above interrogatory is incomplete. The Staff is entitled to a specific, detailed answer to the above interrogatory, without the need to sift through numerous documents. *Byron*, ALAB-678, 15 NRC at 1421 n.39. The Licensee's mere reference to "NRC transcripts of IRCC personnel" is clearly an inadequate response. *Id.* Further, the Licensee's counsel, who provided the only affidavit certifying that the answers contained in the Licensee's Response were true and correct, has no basis to assert that the answer to the Staff's interrogatory is contained in the "NRC transcripts of IRCC personnel" since she was not present at all of the transcribed interviews and, by her own admission, does not have copies of the transcripts. To the extent that the Licensee's response relates to its general objection regarding the NRC transcripts, the Licensee's objection is without merit. See the Staff's discussion of the Licensee's general objection, *supra*.

INTERROGATORY 15

When was the most recent check on the room radiation monitor performed prior to the November 16, 1992 incident? What was the result of that check? Identify the individual who performed the check.

LICENSEE'S RESPONSE

See NRC transcripts of IRCC personnel and Greg Hay.

ARGUMENTS IN SUPPORT OF THE STAFF'S MOTION TO COMPEL A RESPONSE TO INTERROGATORY C15

The Licensee's response is incomplete. The Staff is entitled to a detailed specific answer to interrogatory 15 without the need to sift through documents. *Byron*, ALAB-678, 15 NRC at 1421 n.39. The Licensee's mere reference to "NRC transcripts of IRCC personnel" and to "Greg Hay" is clearly an inadequate response. *Id.* Further, the Licensee's counsel, who provided the only affidavit certifying that the answers contained in the Licensee's Response were true and correct, has no basis to assert that the answer to the Staff's interrogatory is contained in the "NRC transcripts of IRCC personnel" and, presumably the transcript of Greg Hay's NRC interviews, since she was not present at all of the transcribed interviews and, by her own admission, does not have copies of the transcripts. To the extent that the Licensee's response relates to its general objection regarding the NRC transcripts, the Licensee's objection is without merit. *See* the Staff's discussion of the Licensee's general objection, *supra*.

INTERROGATORY 16

Does License Condition 17 require that in the event of a failure of the room radiation monitor, no personnel will enter the room without portable survey meter or audible dosimeter?

LICENSEE'S RESPONSE

Objection. Interrogatory 16 seeks a legal interpretation. License Condition 17 speaks for itself.

ARGUMENTS IN SUPPORT OF THE STAFF'S MOTION TO COMPEL A RESPONSE TO INTERROGATORY C16

The Licensee's objection to Interrogatory 16 is, on its face, unfounded. Interrogatory 16 does not seek a legal interpretation, but rather an answer from the Licensee regarding what License Condition 17 requires. If, as the Licensee, asserts, License Condition 17, speaks for itself, then clearly a response to interrogatory 16 does not require a legal interpretation. In any event, the Staff is entitled to make discovery requests regarding the Licensee's legal theories. *See Duke Power Co. (Catawba Nuclear Station, Units 1 and 2)*, LBP-82-116, 16 NRC 1937, 1946 (1982). Further, the Licensee's assertion that License Condition 17 "speaks for itself" is an incomplete and evasive response. If License Condition 17 "speaks for itself" the Licensee should be able to provide an adequate response to interrogatory 16. The Staff is entitled to discover Licensee's understanding of the terms and conditions of its license which are at issue in this proceeding.

D. Interrogatories Relative to 10 C.F.R. § 19.12 Training Violations at the Licensee's Exton and Lehighton Facilities

INTERROGATORY 1

Identify all personnel who worked at the Exton facility from the time the Exton facility was added to the License until December 8, 1992. Provide titles and a description of duties and responsibilities as they related to the treatment of humans using High Dose Rate brachytherapy). Describe their employment arrangement, employee, contractor, etc., for each person identified. Provide all supporting documentation.

LICENSEE'S RESPONSE

See NRC transcripts of Exton personnel. Further, see documents identified in response to interrogatory 4A.

INTERROGATORY 2

Identify all personnel who worked at the Lehighton facility from the time the Lehighton facility was added to the License until December 8, 1992. Provide titles and a description of duties and responsibilities as they relate to the treatment of humans using HDR. Describe their employment arrangement, employee, contractor, etc., for each person identified. Provide all supporting documentation.

LICENSEE'S RESPONSE

See NRC transcripts of Mahoning Valley personnel. Further, see documents identified in response to interrogatory 4A.

ARGUMENTS IN SUPPORT OF THE STAFF'S MOTION TO COMPEL A RESPONSE TO INTERROGATORIES D1 AND D2

The Licensee's responses to interrogatories 1 and 2 are incomplete. The Staff is entitled to a detailed, specific answer to the above two interrogatories, without the need to sift through documents. *Byron*, ALAB-678, 15 NRC at 1421 n.39. The Licensee's mere reference to "NRC transcripts of Mahoning Valley personnel" and to "NRC transcripts of Exton personnel" is clearly an inadequate response. *Id.* Further, the Licensee's counsel, who provided the only affidavit certifying that the answers contained in the Licensee's Response were true and correct, has no basis to assert that the answer to the Staff's interrogatory is contained in the "NRC transcripts of Mahoning Valley personnel" since she was not present at all of the transcribed interviews of the Mahoning Valley personnel and, by her own admission, does not have copies of the transcripts.

The Licensee's reference to documents identified in response to interrogatory 4A is similarly non-responsive. See the arguments in support of the Staff's Motion to Compel a response to interrogatory 4A. To the extent that the Licensee's responses relate to the Licensee's general objection regarding the NRC transcripts, the Licensee's objections are unfounded. See the Staff's discussion of the Licensee's general objection, *supra*. Since the Staff is requesting information regarding the titles and duties of the Licensee's employees, there is no reason why the Licensee is unable to provide responsive answers to the Staff's interrogatories without the aid of the NRC transcripts.

INTERROGATORY 3

Prior to December 8, 1992, identify:

- a. the individual(s) in charge of HDR treatment at the Exton facility;
- b. the individual(s) in charge of HDR treatment at the Lehighton facility.

For each individual identified in a and b, above, provide the individual's title, and a description of his or her duties and responsibilities.

LICENSEE'S RESPONSE

The licensee objects to interrogatory 3 as vague, unclear and therefore unanswerable. The licensee does not understand the term "in charge of HDR treatment."

INTERROGATORY 4

Was the individual(s) in charge of HDR treatment at the Exton facility, identified in response to interrogatory D3, above, always at the HDR afterloader console during the delivery of treatment? Provide any supporting documentation.

LICENSEE'S RESPONSE

See response to interrogatory 3.

INTERROGATORY 5

Was the individual(s) in charge of HDR treatment at the Lehighton facility, identified in response to Interrogatory D3, above, always at the HDR afterloader console during the delivery of treatment? Provide any supporting documentation.

LICENSEE'S RESPONSE

See response to interrogatory 3.

INTERROGATORY 6

Identify the personnel at the Exton and Lehighton facilities who, prior to December 8, 1992, performed unsupervised HDR treatments.

LICENSEE'S RESPONSE

See response to interrogatory 3. Further, the licensee objects to the term "unsupervised" as unclear and undefined. Therefore, interrogatory 6 is unanswerable.

INTERROGATORY 7

Identify the personnel at the Exton and Lehighton facilities who, prior to December 8, 1992, performed supervised HDR treatments. Identify the personnel at each facility who supervised these above-identified individuals. Describe each supervisor's responsibilities relative to his or her duties as a supervisor of HDR treatments. Describe the supervision provided at each facility, including whether the supervisor was present at the HDR unit console during patient treatment.

LICENSEE'S RESPONSE

See response to interrogatory 3 and interrogatory 6.

ARGUMENTS IN SUPPORT OF STAFF'S MOTION TO COMPEL RESPONSES TO INTERROGATORIES D3, D4, D5, D6, AND D7

The Licensee's objections to the above 5 interrogatories are without merit. The Licensee claims not to understand such terms as "in charge of HDR treatment" and "unsupervised." There is nothing vague or unclear about the terms "in charge of HDR treatment" and "unsupervised," and there is nothing in the above interrogatories to

conclude that anything other than the plain meaning of those terms was to be used. The Licensee, itself, used such terms in its Answer and in its proposed issues. Answer at 12, 13; Joint Prehearing Report at 14 (proposed issue ar and as). *See also*, Licensee's Response to Motion to Dismiss at 13. The Licensee's objections to these interrogatories clearly indicate that the Licensee has failed to make a good faith effort to respond to the Staff's discovery requests.

INTERROGATORY 8

Prior to December 8, 1992, were any of the personnel at the Exton and Lehighton facilities, including, but not limited to, the authorized user and physicists, trained in:

- a. the License;
- b. the License Conditions; and
- c. NRC regulations

by the Licensee, its employees, or agents?

LICENSEE'S RESPONSE

See NRC transcripts of Exton and Mahoning Valley personnel.

INTERROGATORY 9

If the training discussed in response to Interrogatory D8, above, was provided by an employee of the Licensee, identify the employee who provided the training. Provide a job description for this employee and all supporting documentation, including, but not limited to, the employee's employment contract.

LICENSEE'S RESPONSE

See NRC transcripts of Exton and Mahoning Valley personnel.

INTERROGATORY 10

If the training discussed in response to Interrogatory D8, above, was provided by a non-employee of the Licensee, identify the person or persons who provided the training and relationship between the person or persons identified above and the Licensee. Provide all supporting documentation, including, but not limited to, any contract between the Licensee and the person identified above. Explain how the Licensee ensured that such training was in fact provided. Provide all supporting documentation.

LICENSEE'S RESPONSE

See NRC transcripts of Exton and Mahoning Valley personnel.

ARGUMENTS IN SUPPORT OF THE STAFF'S MOTION TO COMPEL RESPONSES TO INTERROGATORIES D8, D9, AND D10

The Licensee's responses to interrogatories 8, 9 and 10 are incomplete. The Staff is entitled to a detailed, specific answer to these interrogatories, without the need to sift through documents. *Byron*, ALAB-678, 15 NRC at 1421 n.39. The Licensee's mere references to "NRC transcripts of Exton and Mahoning Valley personnel" are clearly inadequate responses. *Id.* Further, the Licensee's counsel, who provided the only affidavit certifying that the answers contained in the Licensee's Response were true and correct, has no basis to assert that the answers to the Staff's interrogatories are contained in the NRC transcripts of the Mahoning Valley personnel since she was not present at all of the transcribed interviews of the Mahoning Valley personnel and, by her own admission, does not have copies of the transcripts.

To the extent that the Licensee's responses relate to the Licensee's general objection regarding the NRC transcripts, the Licensee's objections are without merit. See the Staff's discussion of the Licensee's general objection, *supra*. Since the Staff is requesting information regarding the training (apparently the Licensee had no trouble

understanding this term as used in the above interrogatories) it provided to its employees, there is no reason why the Licensee is unable to provide responsive answers to the Staff's interrogatories without the aid of the NRC transcripts.

INTERROGATORY 11

Did the Licensee rely on any previous formal education received by its personnel at the Exton and Lehighton facilities for radiation safety training? If yes, identify those Exton and Lehighton personnel who received the previous formal education relied upon by the Licensee for radiation safety training. For each person identified, identify the institution from which the training was received.

LICENSEE'S RESPONSE

OSC objects to interrogatory 11 because the term "rely" is so vague that the interrogatory is unanswerable. Personnel at Exton and Lehighton were well-educated and knowledgeable. See NRC Transcripts.

ARGUMENTS IN SUPPORT OF THE STAFF'S MOTION TO COMPEL A RESPONSE TO INTERROGATORY D11

The Licensee's objection to interrogatory 11 is without merit. The Licensee claims not to understand the term "rely," (although it apparently understood the Staff's use of the term training). The Licensee apparently understood the term "rely" as used by the Staff in interrogatory B14 since the Licensee did not object to responding to that interrogatory. The term "rely" is a common term which should be given its usual meaning. The Licensee's alleged failure to understand the term "rely" in response to interrogatory 11 clearly indicates that the Licensee has failed to make a good faith effort to respond to the Staff's discovery requests.

Further, the information the Licensee does provide in response to interrogatory 11 is evasive and incomplete. The Licensee fails to answer the Staff's question of whether

the Licensee relied upon prior education of its personnel at the Exton and Lehighton facilities for radiation safety training and fails to provide the requested information regarding that training. Also, the Staff is entitled to a specific, detailed responses, without the need to sift through documents. *Byron*, ALAB-678, 15 NRC at 1421 n.39. The Licensee's mere reference to "NRC transcripts" is clearly an inadequate response. *Id.* Further, the Licensee's counsel, who provided the only affidavit certifying that the answers contained in the Licensee's Response were true and correct, has no basis to assert that the answer to the Staff's interrogatory is contained in unidentified "NRC transcripts" since she was not present at all of the transcribed interviews and, by her own admission, does not have copies of the transcripts.

To the extent that the Licensee's responses relate to the Licensee's general objection regarding the NRC transcripts, the Licensee's objections are unfounded. *See* the Staff's discussion of the Licensee's general objection, *supra*. Since the Staff is requesting information regarding the training of the Licensee's employees, there is no reason why the Licensee is unable to provide responsive answers to the Staff's interrogatories without the aid of the NRC transcripts.

E. Interrogatories Relative to Corporate Management Breakdown

INTERROGATORY 1

Explain how each of the following facts, if true, demonstrates the absence of a significant corporate management breakdown in the control of licensed activities prior to January 20, 1993. Provide the names of all individuals who can testify that these facts are true and provide all supporting documentation, to the extent that this information has not already been provided in response to another interrogatory. If information has been provided in response to another interrogatory, reference the responsive interrogatory or interrogatories.

- a. The physicist and/or Medical Director/Authorized User were at the console during HDR procedures at Exton and Lehighton.
- b. The technologists at the Exton and Lehighton centers were never in charge of an HDR administration.
- c. The technologists at the Exton and Lehighton centers did not perform unsupervised HDR administrations.
- d. The NRC Region I performed a complete safety inspection on September 4, 1991, including review of the Licensee's entire HDR/Radiation Safety program and found no deficiencies with regard to the Licensee's corporate oversight, HDR operation or treatment procedures at that time.
- e. Ongoing individualized, apprentice type training occurs at all the Licensee's facilities by the Medical Directors/Authorized User, Physicist and others.
- f. No HDR treatments were performed by IRCC personnel prior to the completion of the proper training under the pertinent regulations and license conditions.
- g. Medical Directors/Authorized Users received refresher training consistent with any applicable regulations and license conditions by Dr. Cunningham, the then RSO, at semi-annual meetings which address HDR and regulatory compliance.
- h. On November 16, 1992, the treating personnel at IRCC followed the emergency procedures in the Omnitron manual.
- i. During the training period, no HDR procedures were performed in Lehighton without direct supervision from the Harrisburg HDR team headed by Dr. Ying.

- j. The technologists at the Mahoning (Lehigh) Center were trained in the correct use and operation of portable survey meters, wall-mounted radiation survey meters, door interlocks and patient audio-visual communications systems by the Licensee.
- k. The Mahoning (Lehigh) Center radiation training covered a review of emergency procedures.
- l. Dr. Cunningham was in continuing contact by FAX and by phone with the Lehigh Center during the six to nine months prior to the December inspection.
- m. The Lehigh and Exton employees received the Omnitron Training.
- n. The Atlantic City training session included personnel from the Lehigh and Exton centers.
- o. The physicist at Exton received additional calibration training on the HDR unit in Harrisburg.
- p. A copy of the License with all documents incorporated by reference in License Condition 17 was physically present at each of the facilities listed on the License.
- q. The Licensee had a Quality Management program submitted to the NRC and in effect prior to the required deadline in January 1992.
- r. The Licensee voluntarily suspended HDR treatments at the centers under the License upon learning of the November 16, 1993 incident.
- s. The purpose of the Licensee's voluntary suspension of HDR activities was to enable it to understand how the Omnitron 2000 machine malfunctioned and how the IRCC personnel reacted.
- t. The NRC approved an amendment sought by the Licensee on April 2, 1993, changing its Radiation Safety Officer from David E. Cunningham, Ph.D., to Bernard Rogers, M.D.

LICENSEE'S RESPONSE

The licensee objects to interrogatory 1 because it is vague, unclear and fails to define the term "significant corporate management breakdown." Therefore it is unanswerable.

INTERROGATORY 2

State any other fact(s), other than the ones listed above, the Licensee intends to rely upon in order to demonstrate that there was an absence of a significant corporate management breakdown in the control of licensed activities prior to January 20, 1993.

LICENSEE'S RESPONSE

See response to interrogatory E1.

ARGUMENTS IN SUPPORT OF THE STAFF'S MOTION TO COMPEL RESPONSES TO INTERROGATORIES E1 AND E2

The Licensee's objections to the interrogatories 1 and 2 are without merit. The Licensee claims not to understand the term "significant corporate management breakdown." This term and similar terms, however, have been used by the Licensee in its filings with the Board. *See, e.g.* Joint Prehearing Report at 8-11, 13-16 (proposed issues am, ar, as, c, d, o, q, u, m, aj, ak, al, ao, ap, aq, aw, ba, bd, be, and bk); Licensee's Response to Motion to Dismiss at 11-13, 16 (discussion of the proposed issues). The facts related in interrogatory E1 were all facts the Licensee claimed demonstrated that there had not been a significant corporate management breakdown. *Id.* The Licensee cannot now claim that the term is not one with which it is unfamiliar.

INTERROGATORY 3

Describe the corporate training provided by the Licensee in Atlantic City in August, 1992. When, specifically, was this training provided? Provide a list of subjects covered and the approximate length of time devoted to each subject. Did this training include:

- a. the correct use and operation of portable survey meters;
- b. the correct use and operation of wall-mounted radiation survey meters;
- c. the correct use and operation of door interlocks;

- d. the correct use and operation of patient audio-visual communications systems;
- d. training in the License;
- f. training in the License Conditions; and
- g. training in the NRC regulations?

If the answer to e, f, or g, above is yes, identify the specific license conditions and NRC regulations covered by this training. Provide all supporting documentation.

LICENSEE'S RESPONSE

See NRC transcripts. See documents identified in response to interrogatory 4A.

INTERROGATORY 4

Identify the personnel from the facilities listed on the License who attended the corporate training in Atlantic City in August, 1992. Provide all supporting documentation.

LICENSEE'S RESPONSE

See NRC transcripts. See documents identified in response to interrogatory 4A.

ARGUMENTS IN SUPPORT OF THE STAFF'S MOTION TO COMPEL RESPONSES TO INTERROGATORIES E3 AND E4

The Licensee's responses to interrogatories 3 and 4 are incomplete. The Staff is entitled to a detailed, specific answer to the above two interrogatories, without the need to sift through documents. *Byron*, ALAB-678, 15 NRC at 1421 n.39. The Licensee's mere references to "NRC transcripts" are clearly inadequate responses. *Id.* Further, the Licensee's counsel, who provided that the only affidavit certifying that the answers contained in the Licensee's Response were true and correct, has no basis to assert that the answers to the Staff's interrogatories are contained in the "NRC transcripts" since she

was not present at all of the transcribed interviews and, by her own admission, does not have copies of the transcripts. The Licensee's reference to documents identified in response to interrogatory 4A is also incomplete. See arguments in support of the Staff's Motion to Compel a response to interrogatory 4A.

To the extent that the Licensee's responses relate to the Licensee's general objection regarding the NRC transcripts, the Licensee's objections are without merit. See the Staff's discussion of the Licensee's general objection, *supra*. The Licensee itself raised the issue of the training it provided in Atlantic City in its Answer and in its other filings with the Board. There is, therefore, no reason why the Licensee is unable to provide responsive answers to the Staff's interrogatories without the aid of the NRC transcripts. See, e.g., Answer at 4, 13; Licensee's Response to Motion to Dismiss at 12.

INTERROGATORY 5

Was the Atlantic City training mandatory for any personnel working at the facilities listed on the License? If yes, identify for whom was this training mandatory.

LICENSEE'S RESPONSE

Interrogatory 5 is legally irrelevant and therefore objectionable.

ARGUMENTS IN SUPPORT OF THE STAFF'S MOTION TO COMPEL A RESPONSE TO INTERROGATORY E5

The Licensee's objection to interrogatory 5 is, on its face, without merit. The Licensee fails to explain why interrogatory 5, regarding whether the Atlantic City training was mandatory, is not relevant, when it responded, albeit inadequately, to other interrogatories which relate to the training provided in Atlantic City, without objection. In addition, it was the Licensee who raised the issue of the training it provided its

employees in Atlantic City in its Answer and in its filings with the Board. *See, e.g.*, Answer at 4, 13; Joint Prehearing Report at 10, 13 (proposed issues p and ap); Licensee's Response at 12. In light of the above, the Licensee's objection indicates that it has failed to make a good faith effort to respond to the Staff's Discovery Requests.

INTERROGATORY 7

Describe the in-service training provided by Dr. Cunningham, including:

- a. a list of subjects covered;
- b. the approximate length of time devoted to each subject; and
- c. the date of this training.

Identify the personnel from each of the facilities listed on the License who attended this training. How often was this training provided at each of the facilities listed on the License?

LICENSEE'S RESPONSE

The Licensee objects to interrogatory 7 as vague, unclear and unanswerable in so far as it relates to an "in-service training."

INTERROGATORY 8

Did the training described in response to Interrogatory E7, above, include:

- a. the correct use and operation of portable survey meters;
- b. the correct use and operation of wall-mounted radiation survey meters;
- c. the correct use and operation of door interlocks;
- d. the correct use and operation of patient audio-visual communications systems;
- e. training in the License;
- f. training in the License Conditions; and

g. training in the NRC regulations?

If the answer to e, f, or g, above is yes, identify the specific license conditions and NRC regulations covered by this training. Provide all supporting documentation.

LICENSEE'S RESPONSE

See response to interrogatory E7. Further, see NRC transcripts.

ARGUMENTS IN SUPPORT OF THE STAFF'S MOTION TO COMPEL RESPONSES TO INTERROGATORIES E7 AND E8

The Licensee's objections to interrogatories 7 and 8 are without merit. The Licensee claims not to understand the term "in-service training," however, the Licensee, itself, used this term in its Answer. Answer at 4. Further, although the Licensee claims not to understand the term "in-service training," it directed the Staff to see unidentified "NRC transcripts" when it responded, albeit inadequately, to interrogatory E8. See *Byron*, ALAB-678, 15 NRC at 1421 n.39. The Licensee's unfounded objections to interrogatories 7 and 8 indicate that the Licensee has failed to make a good faith effort to respond to the Staff's Discovery Requests.

INTERROGATORY 9

Describe the refresher training provided by Dr. Cunningham at semi-annual meetings to medical directors/authorized users. Include:

- a. a list of subjects covered;
- b. the approximate length of time devoted to each subject; and
- c. the dates of when this training was provided.

LICENSEE'S RESPONSE

See NRC transcripts and documentation identified in response to interrogatory 4A.

INTERROGATORY 10

Identify the personnel from each of the facilities listed on the license who attended the refresher training described above in response to Interrogatory E9.

LICENSEE'S RESPONSE

See NRC transcripts and documentation identified in response to interrogatory 4A.

INTERROGATORY 11

Did the training described in response to Interrogatory E9, above, include:

- a. the correct use and operation of portable survey meters;
- b. the correct use and operation of wall-mounted radiation survey meters;
- c. the correct use and operation of door interlocks;
- d. the correct use and operation of patient audio-visual communications systems;
- e. training in the License;
- f. training in the License Conditions; and
- g. training in the NRC regulations?

If the answer to e, f, or g, above is yes, identify the specific license conditions and NRC regulations covered by this training. Provide all supporting documentation.

LICENSEE'S RESPONSE

See response to interrogatories 9 and 10.

ARGUMENTS IN SUPPORT OF THE STAFF'S MOTION TO COMPEL RESPONSES TO INTERROGATORIES E9, E10, AND E11

The Licensee's responses to interrogatories 9, 10, and 11 are incomplete. The Staff is entitled to a detailed, specific answer to interrogatories 9, 10, and 11, without the need to sift through documents. *Byron*, ALAB-678, 15 NRC at 1421 n.39. The Licensee's mere references to "NRC transcripts" are clearly inadequate responses. *Id.* Further, the Licensee's counsel, who provided the only affidavit certifying that the answers contained in the Licensee's Response were true and correct, has no basis to assert that the answers to the Staff's interrogatories are contained in the "NRC transcripts" since she was not present at all of the transcribed interviews and, by her own admission, does not have copies of the transcripts. The Licensee's reference of documents identified in response to interrogatory 4A is also incomplete. *See* arguments in support of the Staff's Motion to Compel a response to interrogatory 4A.

To the extent that the Licensee's responses relate to the Licensee's general objection regarding the NRC transcripts, the Licensee's objections are unfounded. *See* the Staff's discussion of the Licensee's general objection, *supra*. The Licensee, itself, raised facts regarding refresher training provided at semi-annual meetings in its Answer. Answer at 4. There is, therefore, no reason why the Licensee is now unable to provide responsive answers to the Staff's interrogatories without the aid of the NRC transcripts.

INTERROGATORY 12

Describe any other radiation safety training provided by the Licensee, its employees, agents, contractors, or assignees provided to the personnel at the Exton and Lehighton facilities prior to December 8, 1992. Identify the personnel from each of the facilities who attended this training. How often was this training provided?

LICENSEE'S RESPONSE

OSC objects to interrogatory 12 as vague, unclear and therefore unanswerable. In further response, see NRC transcripts and documentation provided in response to interrogatory 4A.

INTERROGATORY 13

Did the training discussed in response to Interrogatory E12, above, include training in:

- a. the License;
- b. the License Conditions;
- c. the NRC regulations;
- d. the correct use and operation of portable survey meters;
- e. the correct use and operation of wall-mounted radiation survey meters;
- f. the correct use and operation of door interlocks;
- g. the correct use and operation of patient audio-visual communications systems?

If the answer to a, b, or c, above is yes, identify the specific license conditions and NRC regulations covered by this training. Provide all supporting documentation.

LICENSEE'S RESPONSE

See response to interrogatory 12.

INTERROGATORY 14

If the training discussed in response to Interrogatory E12, above, was provided by an employee of the Licensee, identify the employee who provided the training. Provide a job description for this employee and all supporting documentation, including, but not limited to, the employee's employment contract.

LICENSEE'S RESPONSE

See response to interrogatory 12.

INTERROGATORY 15

If the training discussed in response to Interrogatory E12, above, was provided by a non-employee of the Licensee, identify the person or persons who provided the training and the relationship between the person or persons identified and the Licensee. Provide all supporting documentation, including, but not limited to, any contracts between the Licensee and the person identified above. Explain how the Licensee ensured that such training was in fact provided.

LICENSEE'S RESPONSE

See response to interrogatory 12.

ARGUMENTS IN SUPPORT OF THE STAFF'S MOTION TO COMPEL RESPONSES TO INTERROGATORIES E12, E13, E14, AND E15

The Licensee's objections to the above four interrogatories are without merit. The Licensee claims that interrogatory 12 is vague and unclear. Unlike its other objections based on vagueness, the Licensee fails to indicate which term it does not understand. The interrogatories, above, request information regarding radiation safety training provided to the Licensee's personnel at the Exton and Lehighton facilities. There is nothing ambiguous about the four interrogatories. The Licensee's vague and unsupported objections to these interrogatories clearly indicate that the Licensee has failed to make a good faith effort to respond to the Staff's discovery requests.

INTERROGATORY 16

For how long were the personnel at the Exton and Lehighton facilities initially trained prior to being allowed to perform supervised HDR treatments? Describe the training provided to the personnel prior to being allowed to perform supervised HDR treatments. Did this training include training in the License, License Conditions, NRC regulations? Provide all supporting documentation.

LICENSEE'S RESPONSE

OSC objects to interrogatory 16 as vague and unclear based on the term "supervised HDR treatments," and therefore it is unanswerable.

ARGUMENTS IN SUPPORT OF THE STAFF'S MOTION TO COMPEL A RESPONSE TO INTERROGATORY E16

The Licensee's objection to interrogatory 16 is, on its face, without merit. The Licensee asserted, in its Answer that "no HDR procedures were performed. . . without direct supervision." Answer at 12. *See also* Joint Prehearing Report at 13-14 (proposed issues ai and as). The Licensee, therefore, must know what the term "supervised HDR treatments" means. There is nothing vague or unclear about the term "supervised." The Licensee's objection to interrogatory 16 clearly indicates that the Licensee has failed to make a good faith effort to respond to the Staff's discovery requests.

INTERROGATORY 17

For how long were the personnel at the Exton and Lehighton facilities trained prior to being allowed to perform unsupervised HDR treatments? Describe the training provided to the personnel prior to being allowed to perform unsupervised HDR patient treatments. Did this training include training in the License, License Conditions, NRC regulations? Provide all supporting documentation.

LICENSEE'S RESPONSE

OSC objects to interrogatory 17 as vague and unclear based on the term "unsupervised HDR treatments," and therefore it is unanswerable.

ARGUMENTS IN SUPPORT OF THE STAFF'S MOTION TO COMPEL A RESPONSE TO INTERROGATORY E17

The Licensee's objection to interrogatory 17 is, on its face, unfounded. The term "unsupervised HDR treatments" is quite clear. The Licensee asserted in its Answer that during the training period at the Lehigh facility, no HDR procedures were performed without direct supervision. Answer at 12. The Licensee should understand, then, the term unsupervised if it understands the term supervised. *See also* Prehearing Report at 14 (proposed issue as); Licensee's Response to Motion to Dismiss at 13. There is nothing vague or unclear about the term "unsupervised." The Licensee's unfounded objection to interrogatory 17 clearly indicates that the Licensee has failed to make a good faith effort to respond to the Staff's discovery requests.

INTERROGATORY 18

How many times did Dr. Cunningham visit the Lehigh facility within the six to nine month period prior to the December 8, 1992 inspection? Describe the purpose of such visits. If training was involved, describe:

- a. the exact nature of the training;
- b. the subjects covered; and
- c. the approximate amount of time spent on each subject.

Identify the personnel at the Lehigh facility who received any such training.

LICENSEE'S RESPONSE

Interrogatory 18 is legally irrelevant. There is no regulatory requirement for Dr. Cunningham to visit the Lehigh facility.

ARGUMENTS IN SUPPORT OF THE STAFF'S MOTION TO COMPEL A RESPONSE TO INTERROGATORY E18

The Licensee's response to interrogatory 18 is, in effect, an objection; the objection is, on its face, without merit. The Board recently held that the Staff need not rely solely on violations of regulatory requirements in order to suspend a license. *Oncology Services Corporation*, LBP-94-2, 39 NRC ____, slip op. at 31 (January 24, 1994). The fact that there may not be a regulatory requirement that Dr. Cunningham visit the Lehighton facility, therefore, does not render interrogatory 18 "legally irrelevant." In light of the Board's recent decision on this issue, the Licensee's objection clearly indicates that the Licensee has failed to make a good faith effort to respond to the Staff's Discovery Requests.

INTERROGATORY 19

During any of the above described visits, in response to Interrogatory E18, did Dr. Cunningham perform any formal audits of the Licensee's radiation safety program or compliance program? If yes, provide all documentation of these audits, including any final results.

LICENSEE'S RESPONSE

Interrogatory 19 is legally irrelevant. There is no regulatory requirement for a formal audit during the six to nine month period prior to December 8, 1992.

ARGUMENTS IN SUPPORT OF THE STAFF'S MOTION TO COMPEL A RESPONSE TO INTERROGATORY E19

The Licensee's response to interrogatory 19 is, in effect, an objection; that objection is unfounded. As discussed above, the Board recently held that the Staff need not rely solely on violations of regulatory requirements in order to suspend a license. *Oncology*, LBP-94-2, 39 NRC ____, slip op. at 31. The fact that there may not be a

regulatory requirement to perform a formal audit, does not render interrogatory 18 "legally irrelevant." In light of the Board's recent decision, the Licensee's objection clearly indicates that the Licensee has failed to make a good faith effort to respond to the Staff's Discovery Requests.

INTERROGATORY 20

Describe Dr. Cunningham's FAX and telephone contacts with the Lehighton facility during the six to nine months prior to December 8, 1992. Describe:

- a. the purpose of each contacts;
- b. the subject of each contact;
- c. the frequency of such contacts;
- d. the dates of each contact; and
- e. to whom at the Lehighton facility were these contacts directed.

If training was involved, describe the exact nature of the training, including subjects covered and the approximate amount of time spent on each subject. Identify the personnel at the Lehighton facility who received any such training.

LICENSEE'S RESPONSE

Unknown at this time.

ARGUMENTS IN SUPPORT OF THE STAFF'S MOTION TO COMPEL A RESPONSE TO INTERROGATORY E20

The Licensee's response to interrogatory 20 is evasive and incomplete. The Licensee has previously asserted that Dr. Cunningham's contacts with the Lehighton facility demonstrated corporate management control. Answer at 12, Licensee's Response to Motion to Dismiss at 9-10. In addition, the Licensee's response to interrogatory 20 contradicts its response to interrogatory 21, below. The Licensee' claims not to know

the answer to interrogatory 20 and yet references documents in response to interrogatory 21 which requests information regarding the Licensee's response to interrogatory 20.

INTERROGATORY 21

For your response to Interrogatory E20, provide all supporting documentation, including, but not limited to, copies of any written contacts, including faxes, with the Lehighton facility and any telephone logs documenting these contacts.

LICENSEE'S RESPONSE

See phone records previously produced to the NRC by the Licensee.

ARGUMENTS IN SUPPORT OF THE STAFF'S MOTION TO COMPEL A RESPONSE TO INTERROGATORY E21

The Licensee's response to interrogatory 21 is incomplete. The Staff is entitled to a detailed, specific answer to interrogatory 21. *Byron*, ALAB-678, 15 NRC at 1421 n.39. The Licensee should provide the Staff with the titles and dates of the documents as well as how these documents were provided to the NRC, so that there can be no confusion or misunderstanding regarding the documents the Licensee claims contain the response to the above discovery request.

INTERROGATORY 22

Provide the date(s) of Dr. William Ying's visits, if any, prior to December 8, 1992, to the Lehighton facility to provide training. Identify the personnel who received any such training. Provide a list of the subjects covered and the approximate amount of time spent on each subject. Provide any supporting documentation.

LICENSEE'S RESPONSE

See NRC transcripts of Mahoning Valley personnel and of Dr. Ying. Further, see documentation previously produced to the NRC by the licensee identified in response to interrogatory 4A.

INTERROGATORY 23

Prior to December 8, 1992, were copies of the documents incorporated into the License by reference available at the Exton facility? If yes, where at the Exton facility prior to December 8, 1992 were these documents kept? Did the Exton personnel know where these documents were located. If yes, identify each person who knew where these documents were located.

LICENSEE'S RESPONSE

See NRC transcripts and documents produced identified in response to interrogatory 4A.

INTERROGATORY 24

Describe the training provided by Dr. Ying to Paula Salinitro, the Exton physicist, on six days in November 1991 and February 1992, including a list of subjects covered and the approximate amount of time spent on each subject. Provide any supporting documentation.

LICENSEE'S RESPONSE

See NRC transcripts of Dr. Ying and Paula Salinitro.

ARGUMENTS IN SUPPORT OF THE STAFF'S MOTION TO COMPEL A RESPONSE TO INTERROGATORIES E22, E23, AND E24

The Licensee's responses to interrogatories 22, 23, and 24 are incomplete. The Staff is entitled to a detailed, specific answer to the above three interrogatories, without the need to sift through documents. *Byron*, ALAB-678, 15 NRC at 1421 n.39. The Licensee's instructions to see NRC transcripts of the Mahoning Valley personnel, Dr. Ying and/or Paula Salinitro are clearly inadequate responses. *Id.* Further, the Licensee's counsel, who provided the only affidavit certifying that the answers contained in the Licensee's Response were true and correct, has no basis to assert that the answers to the Staff's interrogatories are contained in the NRC transcripts of Dr. Ying, the

Mahoning Valley personnel, or unidentified "NRC transcripts" since she was not present at all of the transcribed interviews and, by her own admission, does not have copies of the transcripts. The Licensee's reference to documents identified in response to interrogatory 4A is also an incomplete response. *See* Arguments in Support of the Staff's Motion to Compel a response to interrogatory 4A.

To the extent that the Licensee's responses relate to the Licensee's general objection regarding the NRC transcripts, the Licensee's objections are without merit. *See* the Staff's discussion of the Licensee's general objection, *supra*. The Licensee, itself, asserted facts regarding Dr. Ying's visits and the training Dr. Ying provided to the Licensee's personnel in its Answer. Answer at 12-13. There is, therefore, no reason why the Licensee is unable to provide complete answers to the Staff's interrogatories without the aid of the NRC transcripts.

INTERROGATORY 28

Provide copies of the emergency procedures for the use of HDR unit at the Exton and Lehighton facilities in effect prior to December 8, 1992.

LICENSEE'S RESPONSE

The licensee has previously produced these documents to the NRC. *See* documentation described in interrogatory 4A.

ARGUMENTS IN SUPPORT OF THE STAFF'S MOTION TO COMPEL A RESPONSE TO INTERROGATORY E28

The Licensee's response to interrogatory 28 is incomplete. *See* arguments in support of the Staff's Motion to Compel a response to interrogatory 4A.

INTERROGATORY 29

Does License Condition 17 require that emergency training include a simulation emergency (dry run) of the source not retracting at the end of treatment

LICENSEE'S RESPONSE

The Licensee objects to interrogatory 29 because it seeks a legal analysis. License Condition 17 speaks for itself.

ARGUMENTS IN SUPPORT OF THE STAFF'S MOTION TO COMPEL A RESPONSE TO INTERROGATORY E29

The Licensee's objection to interrogatory 29 is without merit. Interrogatory 29 does not seek a legal analysis, but rather an answer from the Licensee regarding what License Condition 17 requires. If, as the Licensee, asserts, License Condition 17, speaks for itself, then clearly a response to interrogatory 29 does not require a legal analysis. In any event, the Staff is entitled to make discovery requests regarding the Licensee's legal theories. *See Catawba*, LBP 82-116, 16 NRC at 1946. Further, the Licensee's assertion that License Condition 17 "speaks for itself" is an incomplete and evasive response. If License Condition 17 "speaks for itself" the Licensee should be able to provide an adequate response to interrogatory 29.

INTERROGATORY 30

Did the emergency training provided to the radiation therapy technologists, prior to December 8, 1992, at either the Exton and Lehighton facilities include a simulation emergency ("dry run") of the source not retracting at the end of treatment? If yes:

- a. describe how the simulation emergency was performed at each of the facilities;
- b. identify the personnel at each facility who performed the simulation emergency; and

c. provide the date(s) of each simulation emergency performed at each facility.

LICENSEE'S RESPONSE

See NRC transcripts of Exton and Mahoning Valley personnel.

INTERROGATORY 31

Describe where the emergency procedures were located, prior to December 8, 1992, at the Exton facility. Did the personnel at the Exton facility know of the location of the emergency procedures?

LICENSEE'S RESPONSE

See NRC transcripts of Exton personnel.

INTERROGATORY 32

Prior to December 8, 1992, where was the key to activate the HDR unit at both the Exton and Lehighton facilities stored while not in use? Where was the key stored on December 8, 1992 at both facilities?

LICENSEE'S RESPONSE

See NRC transcripts of Exton and Lehighton personnel.

INTERROGATORY 33

Prior to December 8, 1992, where was the key to activate the linear accelerator at both the Exton and Lehighton facilities stored while not in use? Where was the key stored on December 8, 1992 at both facilities?

LICENSEE'S RESPONSE

See NRC transcripts of Exton and Lehighton personnel.

ARGUMENTS IN SUPPORT OF THE STAFF'S MOTION TO COMPEL RESPONSES TO INTERROGATORIES E30, E31, E32, AND E33

The Licensee's responses to interrogatories 30-33 are incomplete. The Staff is entitled to complete, specific answers to the above interrogatories without having to sift through numerous documents. *Byron*, ALAB-678, 15 NRC at 1421 n.39. The Licensee's references to "NRC transcripts of Exton and Mahoning Valley personnel," "NRC transcripts of Exton personnel," and to "NRC transcripts of Exton and Lehighton personnel" are clearly inadequate responses. *Id.* Further, the Licensee's counsel, who provided the only affidavit certifying that the answers contained in the Licensee's Response were true and correct, has no basis to assert that the answers to the Staff's interrogatories are contained in the NRC transcripts of the Lehighton and Mahoning Valley personnel since she was not present at all of the transcribed interviews and, by her own admission, does not have copies of the transcripts.

To the extent that the Licensee's responses relate to the Licensee's general objection regarding the NRC transcripts, the Licensee's objections are without merit. *See* the Staff's discussion of the Licensee's general objection, *supra*. Since the Staff is requesting information regarding the training the Licensee provided to its employees, and the location of certain items at its Exton and Lehighton facilities, there is no reason why the Licensee is unable to provide complete and responsive answers to the Staff's interrogatories without the aid of the NRC transcripts.

INTERROGATORY 34

Prior to December 8, 1992, were any of the personnel at the Exton facility confused about the term "Quality Management"? If yes, identify the personnel who were

confused. Explain how this confusion explains the conclusion in the Order that the personnel at the Exton facility were not aware of the specifics of the Licensee's Quality Management Program.

LICENSEE'S RESPONSE

Personnel were confused by the term "Quality Management." See NRC transcripts. Relevant personnel were aware of the Quality Management Program.

ARGUMENTS IN SUPPORT OF THE STAFF'S MOTION TO COMPEL A RESPONSE TO INTERROGATORY E34

The Licensee's response to interrogatory 34 is incomplete. Interrogatory 34 requested that the Licensee identify the personnel who were confused by the term Quality Management and explain how this confusion explains the conclusion in the Suspension Order that the personnel at the Exton facility were not aware of the specifics of the Licensee's Quality Management Program (QMP). The Licensee failed to either identify the personnel confused or provide the requested explanation. The Licensee also failed to identify the "relevant personnel" who were aware of the QMP. The Licensee's reference to the NRC transcripts is also incomplete. *Byron*, ALAB-678, 15 NRC at 1421 n.39. Further, the Licensee's counsel, who provided the only affidavit certifying that the answers contained in the Licensee's Response were true and correct, has no basis to assert that the answer to the Staff's interrogatory is contained in unidentified "NRC transcripts" since she was not present at all of the transcribed interviews and, by her own admission, does not have copies of the transcripts.

To the extent that the Licensee's responses relate to the Licensee's general objection regarding the NRC transcripts, the Licensee's objections are unfounded. See the Staff's discussion of the Licensee's general objection, *supra*. The Licensee raised the

possibility of confusion regarding the term QMP in its Answer. Answer at 14-15. There is, therefore, no reason why the Licensee is unable to provide complete answers to the Staff's interrogatories without the aid of the NRC transcripts.

INTERROGATORY 35

Prior to December 8, 1992, identify the personnel at the Exton facility who were aware of the specifics of the Licensee's Quality Management program. For each person identified, describe the specific requirements of the Quality Management program of which he or she was aware. Describe any training provided to the Exton personnel regarding the Licensee's Quality Management program.

LICENSEE'S RESPONSE

See NRC transcripts of Exton personnel.

INTERROGATORY 36

Describe the proper procedures and policies of the Licensee's Quality Management program in which the personnel at the Exton facility were trained or instructed, prior to December 8, 1992. Identify each person trained. How do the described procedures and policies differ from the specifics of the Licensee's Quality Management program?

LICENSEE'S RESPONSE

See NRC transcripts of Exton personnel.

ARGUMENTS IN SUPPORT OF THE STAFF'S MOTION TO COMPEL RESPONSES TO INTERROGATORIES E35 AND E36

The Licensee's responses to interrogatories 35 and 36 are incomplete. The Staff is entitled to complete, specific answers to the above interrogatories without having to sift through numerous documents. *Byron*, ALAB-678, 15 NRC at 1421 n.39. The Licensee's references to "NRC transcripts of Exton personnel" are clearly inadequate responses. *Id.* To the extent that the Licensee's responses relate to the Licensee's general objection regarding the NRC transcripts, the Licensee's objections are without

merit. See the Staff's discussion of the Licensee's general objection, *supra*. The Licensee asserted in its Answer that its personnel at the Exton facility were aware of the specifics of the Licensee's QMP. Answer at 13-14. There is, therefore, no reason why the Licensee is unable to provide complete and responsive answers to the Staff's interrogatories without the aid of the NRC transcripts.

INTERROGATORY 37

Describe, including in what form, *i.e.*, telephone conversation, letter, etc., the communication made by Dr. Bernard Rogers to the Licensee's facilities at both Exton and Lehighton on either December 1 or 2, 1992 regarding the November 16, 1992 incident at the IRCC.

LICENSEE'S RESPONSE

See NRC transcript of Dr. Bernard Rogers.

INTERROGATORY 38

Identify the individuals at each facility notified by Dr. Rogers of the November 16, 1992 incident on either December 1 or 2, 1992. State what was communicated to those individuals regarding the November 16, 1992 incident, and whether those individuals were instructed to inform any other personnel at the facilities. Provide any supporting documentation, including, but not limited to, copies of any written communications made by Dr. Rogers regarding the November 16, 1992 incident made prior to December 8, 1992 or telephone logs documenting any telephone communications regarding the IRCC incident made prior to December 8, 1992.

LICENSEE'S RESPONSE

See NRC transcript of Dr. Bernard Rogers.

ARGUMENTS IN SUPPORT OF THE STAFF'S MOTION TO COMPEL RESPONSES TO INTERROGATORIES E37 AND E38

The Licensee's responses to interrogatories 37 and 38 are incomplete. The Staff is entitled to complete, specific answers to the above interrogatory without having to sift

through numerous documents. *Byron*, ALAB-678, 15 NRC at 1421 n.39. The Licensee's references to "NRC transcripts of Dr. Bernard Rogers" are clearly inadequate responses. *Id.* Further, the Licensee's counsel, who provided the only affidavit certifying that the answers contained in the Licensee's Response were true and correct, has no basis to assert that the answers to the Staff's interrogatories are contained in the referenced transcripts since she was not present at all of the interviews of Dr. Rogers and, by her own admission, does not have copies of the transcripts.

To the extent that the Licensee's responses relates to the Licensee's general objection regarding the NRC transcripts, the Licensee's objections are without merit. *See* the Staff's discussion of the Licensee's general objection, *supra*. The Licensee asserted in its Answer that Dr. Rogers notified individuals at each facility of the November 16, 1992 incident at the IRCC. Answer at 15. There is no reason, therefore, why the Licensee is unable to provide complete and responsive answers to interrogatories 37 and 38 without the aid of the NRC transcripts.

INTERROGATORY 39

After November 16, 1992, when were HDR treatments suspended at each of the Licensee's facilities. Provide the dates for each referenced facility.

LICENSEE'S RESPONSE

See documentation identified in response to interrogatory 4A.

ARGUMENTS IN SUPPORT OF THE STAFF'S MOTION TO COMPEL A RESPONSE TO INTERROGATORY E39

The Licensee's response to interrogatory 39 is incomplete. *See* arguments in support of the Staff's Motion to Compel a response to interrogatory 4A.

F. Interrogatories Relative to the December 18, 1992 Letter from Dr. Cunningham

INTERROGATORY 1

Regarding Dr. Cunningham's December 18, 1992 letter in which Dr. Cunningham wrote "It is not possible for Corporate Administration to supervise your radiation safety program on a routine basis," (hereinafter referred to as "December 18, 1992 letter") describe which RSO tasks Dr. Cunningham attempted to delegate in the December 18, 1992 letter. How do these tasks differ from RSO responsibilities?

LICENSEE'S RESPONSE

Objection. Interrogatory 1 seeks a legal interpretation. The December 18, 1992 letter speaks for itself. Further, see Cunningham's NRC transcripts.

ARGUMENTS IN SUPPORT OF THE STAFF'S MOTION TO COMPEL A RESPONSE TO INTERROGATORY F1

The Licensee's objection is, on its face, without merit. Interrogatory 1 does not seek a legal interpretation, but rather an explanation of Dr. Cunningham's December 18, 1992 letter. In any event, it is appropriate to request legal interpretations in discovery. See *Catawba*, LBP-82-116, 16 NRC at 1946. Further, the Licensee's assertion that the December 18, 1992 letter speaks for itself is without merit. It is apparent that the December 18, 1992 letter does not speak for itself, otherwise the Licensee would have admitted that the letter was an improper delegation of RSO responsibilities. The Licensee has denied the assertion in the Suspension Order regarding the December 18, 1992 letter in its Answer and has, instead, asserted that the letter was a delegation of tasks and not responsibility. Answer at 16-17. The December 18, 1992 letter clearly does not speak for itself, unless the Licensee is now agreeing to the Staff's interpretation of the letter as expressed in the Suspension Order.

The Licensee's reference to "Cunningham's NRC transcripts" fails to provide a complete response to interrogatory 1. *Byron*, ALAB-678, 15 NRC at 1421 n.39. Further, the Licensee's counsel, who provided the only affidavit certifying that the answers contained in the Licensee's Response were true and correct, has no basis to assert that the answer to the Staff's interrogatory is contained in "Cunningham's NRC transcripts" since she was not present at all of the interviews of Dr. Cunningham and, by her own admission, does not have copies of the transcripts.

INTERROGATORY 2

What was the purpose of the December 18, 1992 letter?

LICENSEE'S RESPONSE

See Cunningham's NRC transcripts.

ARGUMENTS IN SUPPORT OF THE STAFF'S MOTION TO COMPEL A RESPONSE TO INTERROGATORY F2

The Licensee's response to interrogatory 2 is incomplete. The Staff is entitled to complete, specific answers to the above interrogatory without having to sift through numerous documents. *Byron*, ALAB-678, 15 NRC at 1421 n.39. Further, the Licensee's counsel, who provided that the only affidavit certifying that the answers contained in the Licensee's Response were true and correct, has no basis to assert that the answer to the Staff's interrogatory is contained in "Cunningham's NRC transcripts" since she was not present at all of the interviews of Dr. Cunningham and, by her own admission, does not have copies of the transcripts.

To the extent that the Licensee's response relates to the Licensee's general objection regarding the NRC transcripts, the Licensee's objection is without merit. See the Staff's discussion of the Licensee's general objection, *supra*. The Licensee asserted in its Answer that the December 18, 1992 letter was a delegation of RSO tasks and denied that it was an improper delegation of RSO responsibilities. Answer at 16-17. See also Joint Prehearing Report at 16 (proposed issues bh and bi). There is, therefore, no reason why the Licensee is now unable to provide complete and responsive answers to the interrogatory 2 without the aid of the NRC transcripts.

INTERROGATORY 3

Explain how the fact that the December 18, 1992 letter was written at a time when licensed activities were suspended at the Licensee's facilities demonstrates that the letter was an attempted delegation of tasks and not responsibilities.

LICENSEE'S RESPONSE

None of the conduct is subject to a regulation requirement solely obligating the radiation safety officer.

ARGUMENTS IN SUPPORT OF THE STAFF'S MOTION TO COMPEL A RESPONSE TO INTERROGATORY F3

The Licensee's response to interrogatory 3 is evasive and incomplete. The Licensee fails to provide an explanation of how the fact that the December 18, 1992 letter was written at a time when licensed activities were suspended at the Licensee's facilities demonstrates that the letter was an attempted delegation of tasks and not responsibilities. Indeed, the Licensee's answer, to the extent the Staff can understand it, has no relevance to the question asked in interrogatory 3. In addition, to the extent that the Licensee is asserting an objection to interrogatory 3, its objection is unfounded in light of the Board's

decision which held that the Staff need not rely solely on violations of regulatory requirements in order to suspend a license. *Oncology*, LBP-94-2, 39 NRC ____, slip op. at 31. The Licensee's unfounded objection and evasive response to the above interrogatory clearly indicate that the Licensee has failed to make a good faith effort to respond to the Staff's Discovery Requests.

INTERROGATORY 4

Explain why the proper interpretation of the December 18, 1992 letter requires an understanding that the letter was written when HDR procedures were suspended at the Licensee's facilities, except the Harrisburg and Pittsburgh centers.

LICENSEE'S RESPONSE

Based on the timing, there was clearly not even a transfer of tasks.

ARGUMENTS IN SUPPORT OF THE STAFF'S MOTION TO COMPEL A RESPONSE TO INTERROGATORY F4

The Licensee's response to interrogatory 4 is evasive, incomplete, and in contradiction to its previous assertions. The Licensee fails to explain that the timing of the December 18, 1992 has any bearing on the proper interpretation of that letter. In addition, the Licensee has previously asserted that the December 18, 1992 letter was, in fact, a delegation of tasks. Answer at 16. Inconsistent statements are to be considered the same as a failure to respond. *See Vermont Yankee Nuclear Power Corp.* (Vermont Yankee Nuclear Power Station), LBP-88-25, 28 NRC 394, 397-99 (1988).

INTERROGATORY 5

Explain why the proper interpretation of the December 18, 1992 letter requires an understanding that each of the Licensee's facilities listed on the Licensee was staffed from the outset with personnel who, if licensed, could operate independently of a corporate RSO and, which, if licensed, were qualified to act as direct RSOs for a particular center.

LICENSEE'S RESPONSE

See responses to interrogatories 3 and 4.

ARGUMENTS IN SUPPORT OF THE STAFF'S MOTION TO COMPEL A RESPONSE TO INTERROGATORY F5

The Licensee's response to interrogatory 5 is evasive and non-responsive. Interrogatory 5 requests an explanation of why the proper interpretation of the December 18, 1992 letter requires an understanding that each of the Licensee's facilities listed on the License was staffed from the outset with personnel who, if licensed, could operate independently of a corporate RSO and, who, if licensed, were qualified to act as direct RSOs for a particular center. The Licensee's reference to its responses to interrogatories 3 and 4 have no relevance to the question asked in interrogatory 5. It appears that the Licensee did not read interrogatory 5 and failed to make a good faith effort to respond adequately to it. To the extent that the Licensee references its responses to interrogatories 3 and 4, see Arguments in Support of the Staff's Motion to Compel Responses to Interrogatories 3 and 4.

INTERROGATORY 6

Identify the personnel at each of the Licensee's facilities listed on the License who, if licensed, could operate independently of a corporate RSO. Identify the personnel at each of the Licensee's facilities listed on the License who were qualified to act as an RSO for the particular center where he or she worked. For each person identified, provide documentation of his or her qualifications to act as an RSO and to operate independently of a corporate RSO.

LICENSEE'S RESPONSE

The medical director at each facility is a licensed board certified radiation oncologist. See resumes previously produced to the NRC.

ARGUMENTS IN SUPPORT OF THE STAFF'S MOTION TO COMPEL A
RESPONSE TO INTERROGATORY F6

The Licensee's response to interrogatory 6 is incomplete. The Staff requested and is entitled to be provided with the names and addresses of each medical director referenced in the Licensee's response. *See Pilgrim LBP-75-30, 1 NRC at 583.* Further, since the Licensee has not provided the names of each medical director to whom it refers, the Licensee's reference to "resumes previously produced to the NRC," in response to the question regarding their qualifications is also incomplete. The Licensee's response to interrogatory 6 demonstrates that the Licensee failed to make a good faith effort to respond to the Staff's discovery requests.

G. Interrogatories Relative to the Sanction Imposed

INTERROGATORY 1

Provide a detailed description of the conduct of HDR at the Licensee's facilities not cited in the Order. Explain how the Licensee's conduct in the administration of HDR at its other facilities, not cited in the Order, indicates that the License should not be suspended, assuming that the facts in the Order are true.

LICENSEE'S RESPONSE

See NRC transcripts. The conduct meets every regulatory requirement.

ARGUMENTS IN SUPPORT OF THE STAFF'S MOTION TO COMPEL A
RESPONSE TO INTERROGATORY G1

The Licensee's response to interrogatory 1 is incomplete and evasive. The Staff requested a detailed description of the conduct of HDR at the Licensee's facility not cited in the Suspension Order. The Staff further requested an explanation of how the conduct in the administration of HDR at these other facilities indicates that the license should not

be suspended. The Licensee's response does not provide the requested description or explanation. Further, the Licensee's reference to the NRC transcripts is incomplete. The Staff is entitled to complete, specific answers to the above interrogatory without having to sift through numerous documents. *Byron*, ALAB-678, 15 NRC at 1421 n.39. The Licensee's mere reference to "NRC transcripts" is clearly an inadequate response. *Id.* Further, the Licensee's counsel, who provided the only affidavit certifying that the answers contained in the Licensee's Response were true and correct, has no basis to assert that the answers to the Staff's interrogatory is contained in the "NRC transcripts" since she was not present at all of the transcribed interviews and, by her own admission, does not have copies of the transcripts.

To the extent that the Licensee's response relates to the Licensee's general objection regarding the NRC transcripts, the Licensee's objection is without merit. *See* the Staff's discussion of the Licensee's general objection, *supra*. The Licensee has asserted that the administration of HDR at its other facilities indicates that its license should not have been suspended. *See, e.g.* Prehearing Report at 7 (Proposed Issue ai). In addition, the Licensee should be able to provide information regarding the performance of HDR treatments at its own facilities. There is, therefore, no reason why the Licensee is unable to provide complete and responsive answers to the interrogatory 1 without the aid of the NRC transcripts.

INTERROGATORY 2

Identify and describe the good cause and exculpatory grounds which the Licensee believes excuses the Licensee's failure to comply with the literal terms of the License. Explain how the Licensee's failure to comply with the literal terms of the License did not

result in an increased risk to its personnel as well as to the general public. Explain how the above discussed good cause, the absence of increased risk or other exculpatory grounds mitigates or excuses the Licensee's failure to comply with the literal terms of the License.

LICENSEE'S RESPONSE

Where literal enforcement does not equal the regulatory basis and objectives, it is arbitrary and capricious and does not impact on public safety.

ARGUMENTS IN SUPPORT OF THE STAFF'S MOTION TO COMPEL A RESPONSE TO INTERROGATORY G2

The Licensee's response to interrogatory 2 is incomplete and evasive. The Staff requested a description of the good cause and exculpatory grounds which the Licensee asserted excuses its failure to comply with the literal terms of the license and why the Licensee's failure to comply with the literal terms of the license did not result in an increased risk to its personnel and the general public. The Licensee's response fails to provide the requested explanation. In addition, the Licensee fails to identify which regulatory bases and objectives to which it refers in its response.

REQUEST FOR ADMISSIONS

1. The room radiation monitor (PrimeAlert) had alarmed, indicating the presence of radiation, during the treatment of the patient on November 16, 1992 at the IRCC.

LICENSEE'S RESPONSE

Denied. The room radiation monitor did not have an audible alarm that could have alarmed. The room radiation monitor flashed, however, it was not understood by IRCC personnel in this instance to indicate the presence of radiation.

ARGUMENTS IN SUPPORT OF THE STAFF'S MOTION TO COMPEL A RESPONSE TO REQUEST 1

The Staff requests that the Board order that the Licensee's response be an admission. The Licensee does admit that the room radiation monitor flashed red. The Staff's request for admission did not specifically state that the room radiation monitor alarmed audibly, but rather that it did alarm. An alarm need not be audible. The Licensee's admission that the room radiation monitor flashed red, therefore, is an admission that the monitor alarmed.

5. On November 16, 1992 at the IRCC, neither the authorized user/medical director nor the radiation therapy technologists upon entering the treatment room at the IRCC used either an audible dosimeter or a portable survey meter.

LICENSEE'S RESPONSE

Objection. This request can neither be admitted nor denied due to the total lack of specificity.

ARGUMENTS IN SUPPORT OF THE STAFF'S MOTION TO COMPEL A RESPONSE TO REQUEST 5

The Licensee's objection to request for admission 5 is without merit. The Staff's request is very specific and there is no reason why the Licensee can neither admit or deny this request.

6. On November 16, 1992 at the IRCC, neither the authorized user/medical director nor the radiation therapy technologist, or any other IRCC personnel, surveyed the patient with a portable survey meter after terminating treatment.

LICENSEE'S RESPONSE

Objection. Request 6 is legally irrelevant. The patient was not surveyed with a portable survey meter and no such requirement existed.

ARGUMENTS IN SUPPORT OF THE STAFF'S MOTION TO COMPEL A
RESPONSE TO REQUEST 6

The Staff requests that the Board order that the Licensee's response be construed as an admission. The Licensee's objection to request 6 is without merit because the request does not ask for an admission that such survey was a regulatory requirement. Further, although the Licensee does object to this request, the Licensee does admit that the patient was not surveyed with a portable survey meter.

In summary, for the reasons set forth above, the above enumerated Licensee responses to the Staff's Discovery Requests are either evasive or incomplete. In addition, the Licensee's objections to the Staff's Discovery Requests are, on their face, without merit. The Staff's Motion to Compel responses to the Staff's Discovery Requests, enumerated above, should be granted.

CONCLUSION

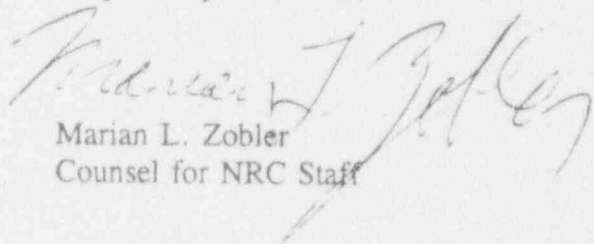
For the reasons set forth above, the Staff's Motion to Compel should be granted

II. NRC STAFF MOTION FOR A PROTECTIVE ORDER

Pursuant to section 2.740(c) of the Commission's regulations, the Staff hereby requests that the Board enter a protective order directing that the Staff need not respond to any further discovery requests by the Licensee until such time as the Licensee provides adequate responses to the Staff's Discovery Requests. As demonstrated by the Licensee's evasive or incomplete responses to the Staff's Discovery Requests, by the Licensee's unfounded objections, and by the fact that the Licensee's Counsel had no basis to assert,

in her affidavit, that answers to the Staff's Discovery Requests were to be found in "NRC transcripts," it is clear that the Licensee has failed to make a good faith effort to adequately respond to the Staff's Discovery Requests. In addition, since responding to the Licensee's first discovery request, the Staff has received two additional requests. The Staff, however, is unable to conduct any further discovery due to the Licensee's failure to respond adequately to the Staff's Discovery Requests. Discovery is not a one-way street. *Catawba*, LBP-82-116, 16 NRC at 1941. In order to prevent an undue burden on the Staff, the Staff requests that the Board grant a protective order, directing that the Staff need not respond to any further discovery requests by the Licensee until such time as the Licensee provides adequate responses to the Staff's Discovery Requests.

Respectfully submitted,



Marian L. Zabler
Counsel for NRC Staff

Dated at Rockville, Maryland
this 14th day of March, 1994

DOCKETED
USNRC

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF SECRETARY
DOCKETING & 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 copies of "NRC STAFF'S MOTION TO COMPEL RESPONSES TO STAFF'S INTERROGATORIES AND REQUESTS FOR ADMISSIONS AND PRODUCTION OF DOCUMENTS AND NRC STAFF MOTION FOR PROTECTIVE ORDER" in the above-captioned proceeding have been served on the following by deposit in the Nuclear Regulatory Commission's internal mail system or, as indicated by an asterisk, by deposit in the United States mail, first class this 14th day of March, 1994:

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

Dr. Charles N. Kelber
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Marcy L. Colkitt*
General Counsel
Oncology Services Corp.
P.O. Box 607
Indiana, PA 15701-0607

Office of the Secretary (2)
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
Attn: Docketing and Service Section

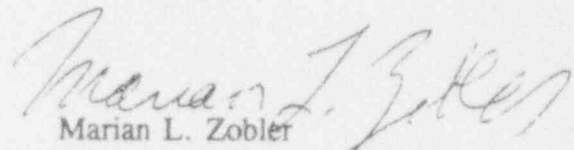
Kerry A. Kearney, Esq.*
Joseph W. Klein, Esq.
Joseph R. Rodkey, Jr., Esq.
Counsel for Oncology Services Corp.
Reed Smith Shaw & McClay
Mellon Square
435 Sixth Avenue
Pittsburgh, PA 15219-1886

Dr. Peter S. Lam
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Adjudicatory File (2)
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Atomic Safety and Licensing Board
Panel (1)
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Office of Commission Appellate
Adjudication (1)
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555


Marian L. Zabler
Counsel for NRC Staff