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ONCOLOGY SERVICES CORPORATION

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RELATED CORRESPONDENCE

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March 7, 1994

VIA TELECOPY: 301-504-3725

Marian L. Zobler, Esquire  
U.S. Nuclear Regulatory Commission  
Office of General Counsel  
Washington, D.C. 20555

Re: OSC; License No. 37-28540-01;  
Docket No. 030-31765-EA

Dear Marian:

In Barry Letts' Affidavit dated January 14, 1994 at paragraph 6 he stated "If, after the referral is made, DOJ declines to prosecute the referred matters or if DOJ otherwise indicates that it is no longer necessary to withhold certain documents, I will so inform counsel for NRC Staff and the withheld documents will be made available to the Licensee within a reasonable time." The Letts' Affidavit was in support of the Staff's Motion for a Protective Order and is attached hereto for ease.

On February 7, 1994 you reported in "NRC Staff Status Report on Criminal Referrals to the Department of Justice" that one referral to the U.S. Attorney for the Middle District was declined. You also reported that a single matter relating to alleged deliberate, incomplete and/or inaccurate statements by Dr. James Bauer preliminarily was going to be investigated by the U.S. Attorney for the Western District. In today's filing you indicated that there was nothing new to report on the criminal referral issue.

Therefore, according to Mr. Letts' January 14, 1994 Affidavit I see absolutely no reason why the vast majority of the transcripts cannot be released by the Staff. (As you are also aware, The Honorable Donald Lee, U.S. District Judge of the Western District of Pennsylvania, has ordered that all the documents be released. No stay of that Order has been entered and the government has refused to comply.) While I could file a motion with the Board regarding this issue, I am hopeful you will instead, pursuant to the sworn testimony of Mr. Letts, voluntarily advise the Board as to the Staff's current position regarding the Staff's Protective Order which I believe is now extremely overbroad.

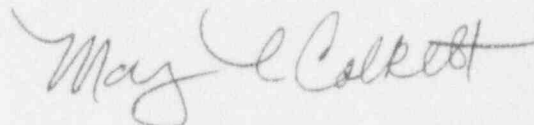
With respect to your letter of March 3, 1994, my co-counsel and I unequivocally believe the misimpression left with the

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Board and the licensee regarding the alleged but never completed "written referral" should have been clarified by the Staff pursuant to Louisiana Power and Light Company, CLI-86-1, 23 NRC 1 (1986) and Duke Power Company, ALAB-143, 6 AEC 623 (1973).

Very truly yours,



Marcy L. Colkitt

General Counsel

MLC/sjg

Attachment

cc: G. Paul Bollwerk, III, Esquire (w/encl.)  
Dr. Charles N. Kelber (w/encl.)  
Dr. Peter S. Lam (w/encl.)  
Office of the Secretary

ATTACHMENT A

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	
ONCOLOGY SERVICES CORPORATION	)	Docket No. 030-31765
	)	EA 93-006
(Order Suspending Byproduct	)	
Material License No. 37-28540-01)	)	ASLBP No. 93-674-03-EA

AFFIDAVIT OF BARRY R. LETTS  
IN SUPPORT OF NRC STAFF MOTION FOR PROTECTIVE ORDER

I, Barry R. Letts, first being duly sworn, depose and state:

1. I am the Region I Field Office Director, Office of Investigations, U.S. Nuclear Regulatory Commission. The Office of Investigations (OI), pursuant to 10 C.F.R. 1.36, carries out investigations of alleged wrongdoing by licensees, applicants and vendors, or their contractors. One of OI's responsibilities is to investigate alleged violations of NRC rules and regulations and to determine whether such alleged violations merit referral to the United States Department of Justice (DOJ) for criminal consideration. See Memorandum of Understanding between the DOJ and the NRC, 53 Fed. Reg. 50317 (December 14, 1988).

2. The purpose of this affidavit is to provide information to support the NRC Staff's motion for a protective order.

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3. OI's investigation regarding the November 1992 incident at the Indiana Regional Cancer Center (IRCC), incomplete and/or inaccurate statements made by the Licensee's personnel to members of the NRC staff and other license issues potentially affecting the public health and safety is almost complete. With the exception of interviewing OSC's President, the taking of statements, at this juncture in the investigation, has been completed and a preliminary decision regarding referral to DOJ has been made.

4. It is my decision that the preliminary results of the OI investigation indicate that several issues under investigation by OI warrant referral to DOJ. The issues to be referred to DOJ involve deliberate inaccurate and incomplete statements made by the Licensee's personnel in connection with the November 1992 incident at the IRCC.

5. Until the referrals to DOJ are made and until DOJ decides whether to pursue a criminal prosecution, it is necessary to withhold certain documents and other information, including transcripts of statements obtained by the Incident Investigation Team (IIT). Since the IIT documents contain statement transcripts and other information regarding the same individuals who are likely to be called as witnesses in any grand jury proceeding related to the referred matters, it is necessary to withhold such information in order to protect the grand jury process. The premature release of the IIT documents could, therefore, adversely affect a potential criminal proceeding.

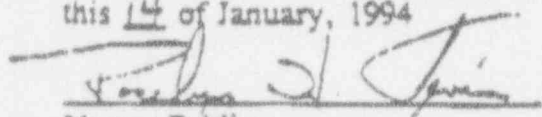
6. I estimate that initial consultations with DOJ will be made within one week from the date of this affidavit. If, after the referral is made, DOJ declines to prosecute the referred matters, or if DOJ otherwise indicates that it is no longer necessary to withhold certain documents, I will so inform counsel for NRC staff and the withheld documents will be made available to the Licensee within a reasonable time.

7. The matters stated above are true and correct to the best of my knowledge, information, and belief.



Barry R. Letts, Director  
Office of Investigations  
Field Office, Region I

Subscribed and sworn to before me  
this 14 of January, 1994

  
Notary Public