

UNITED STATES
NUCLEAR REGULATORY COMMISSION

In the Matter of)
) Docket No. 030-33158
WeGo Perforators, Inc.) License No. 35-12400-03
ATTN: Radiation Safety Officer)
P.O. Box 594)
Ada, Oklahoma 74820)

CONFIRMATORY ORDER MODIFYING LICENSE
(EFFECTIVE IMMEDIATELY)
AND DEMAND FOR INFORMATION

I

WeGo Perforators, Inc. (Licensee) is the holder of Materials License No. 35-12400-03, issued by the Nuclear Regulatory Commission (NRC or Commission) by an Order dated April 30, 1993, pursuant to the Atomic Energy Act, as amended, 42 U.S.C. §§ 2011 *et seq.*, that authorized the Licensee to possess and store a sealed source containing byproduct material incident to license termination. The expiration date for the license was October 31, 1993; however, pursuant to 10 C.F.R. § 30.36(e), the license continues in effect beyond that date with respect to possession of residual byproduct material present as contamination until the Commission notifies the Licensee in writing that the license is terminated. Notwithstanding the form of the subject byproduct material (a sealed source), the license has not been terminated by the Commission and continues in effect.

II

The Licensee is in possession of an Americium 241 (Am-241) well-logging source (Monsanto Co. Model MRC-N-SS-W-AmBe). On November 15, 1993, the NRC received a letter from the Licensee dated November 11, 1993, stating that efforts to dispose of the Licensee's source have been unsuccessful. On December 6, 1993, an NRC inspector confirmed that a sealed source containing byproduct material is still stored at the Licensee's facility. The inspector observed that the Licensee was controlling access to the source in accordance with the Commission's regulatory requirements.

The Commission's regulation in 10 C.F.R. § 30.36(c)(1)(iii) and the provisions of the NRC's Order of April 30, 1993, required that the Licensee properly dispose of byproduct material before the license expired on October 30, 1993. As stated above, the Licensee is still in possession of its Am-241 source. Accordingly, the Licensee is in violation of the Commission's regulatory requirements.

III

The Licensee's Am-241 source is greater than Class C waste, as defined in 10 C.F.R. § 61.55. Accordingly, disposal of the source may not be accomplished under 10 C.F.R. Part 61 but must await the availability of a high-level waste repository meeting the

standards of 10 C.F.R. Part 60. As set forth below, the Licensee's options for disposal of its source now, as required by 10 C.F.R. § 30.36(c), appear to be limited.

The Licensee could attempt to sell the source. However, the source is of a design no longer authorized for its original intended use, well logging operations. In addition, the Licensee could arrange for another licensed person to accept the source for recycling or storage until a waste repository is available. However, there are few programs available for recycling/storage of sealed sources. Such a program, if available, typically requires a large fee.

Currently, the Department of Energy (DOE) will take possession of sources similar to the Licensee's and store them only in responding to emergency situations when the NRC is confronted with a potentially serious threat to public health and safety (Letter dated April 7, 1992, from L.P. Duffy, DOE, to R.M. Bernero, NRC). Because the Licensee is controlling access to the source and safely storing it, the DOE criteria for accepting the source on an emergency basis are not now met.

While the Licensee may have other options for disposing of the source, in view of the above, the most likely options for disposal of the source in the near future appear to be foreclosed. Accordingly, it is necessary to modify the license to require the Licensee to store the source in a manner that will ensure that the source will not be a hazard to public health and safety. In a telephone conversation held on March 4, 1994, between

William L. Fisher, NRC, and Mr. Marshall S. Brackin, WeGo Perforators, the Licensee agreed to the imposition of the requirements set forth in Section IV of this Order.

IV

In view of the foregoing and pursuant to sections 81, 161b, 161c, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 C.F.R. § 2.202 and 10 C.F.R. Parts 30 and 39, IT IS HEREBY ORDERED, EFFECTIVE IMMEDIATELY, THAT:

- A. The Licensee is authorized to possess, but not use, its sealed neutron source;
- B. The Licensee shall safely store its sealed neutron source at its facility in Ada, Oklahoma in accordance with the Commission's regulations, the conditions set forth below, and the conditions of the modified license in the Appendix to this Order;
- C. In accordance with 10 C.F.R. § 30.36, License No. 35-12400-03, as modified by this Order, shall continue in effect until disposal of the sealed neutron source is complete and the Commission notifies the Licensee in writing that the license is terminated; and
- D. License No. 35-12400-03 is modified as follows:
 1. Current license condition 13 is modified as follows:
 13. Notwithstanding the periodic leak test required by 10 CFR 39.35, sources that are stored and not being used shall

be tested for leakage at intervals not to exceed 3 years. In addition, sources shall be tested for leakage within 6 months before transfer to another person;

2. Current license condition 14 is renumbered as new condition 15, and replaced by new condition 14 as follows:

14. The Licensee shall conduct a physical inventory every 6 months in accordance with 10 CFR 39.37;

3. Current license condition 15 is renumbered as new condition 16, and replaced by new condition 15 as follows:

15. The Licensee shall not vacate or release to unrestricted use the storage location identified in Condition 10 without prior U.S. Nuclear Regulatory Commission approval;

4. Current license condition 16 is renumbered as new condition 20;

5. New condition 17 is added, as follows:

17. The Licensee is authorized to transport licensed material in accordance with the provisions of 10 CFR Part 71, "Packaging and Transportation of Radioactive Material," for the sole purpose of transferring material in its possession to another person;

6. New condition 18 is added, as follows:

18. The Licensee shall continue to take all actions within its ability to dispose of its sealed neutron source;

7. New condition 19 is added, as follows:

19. Within 30 days of disposing of its sealed neutron source, the Licensee shall notify the Commission in writing and request termination of the license in accordance with 10 C.F.R. § 30.36(b).

Except as modified above, the Commission's other requirements regarding expiration and termination of licenses in 10 C.F.R. § 30.36 remain in effect and apply to the Licensee. Failure to comply with any of the above conditions may result in further enforcement action.

The Regional Administrator, NRC Region IV, may relax or rescind any of the above conditions upon the Licensee's showing, in writing and under oath or affirmation, of good cause.

V

Any person other than the Licensee adversely affected by this Confirmatory Order may request a hearing on this Order within 20 days of the date of this Order. Any request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Docketing and Service Branch, Washington, D.C. 20555. Copies also shall be sent to the Director, Division of Industrial & Medical Nuclear Safety, Office of Nuclear Material Safety & Safeguards, U.S. Nuclear Regulatory Commission,

Washington, DC 20555; the Assistant General Counsel for Hearings and Enforcement at the same address; the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, D.C. 20555; the Regional Administrator, NRC Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas, 76011-8064; and to the Licensee. If such a person requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 C.F.R. § 2.714(d).

If a person whose interest is adversely affected requests a hearing, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, this Order shall be final and effective 20 days from the date of this Order without further order or proceedings. An answer or request for hearing does not stay the immediate effectiveness of this Order.

VI

In addition to issuance of this Order modifying License No. 35-12400-03, the Commission requires further information from the Licensee in order to determine whether the Licensee has taken all reasonable actions to dispose of its sealed source.

Accordingly, pursuant to section 161c, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and 10 C.F.R. §§ 2.204 and 30.32(b), in order for the Commission to determine whether your license should be further modified or other enforcement action taken to ensure compliance with NRC regulatory requirements, the Licensee is required to submit to the Chief, Nuclear Materials Licensing Section, Division of Radiation Safety and Safeguards, NRC Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, TX, 76011-8064, within 45 days of the date of this Confirmatory Order and Demand for Information, the following information, in writing and under oath or affirmation:

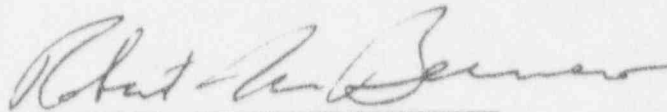
1. A detailed, written description of all efforts made to dispose of or transfer the sealed source; and
2. For each case where a person was found that was authorized to receive the sealed source and would accept it for a fee, provide the following:
 - A. an estimate of the total cost of transferring the sealed source and the basis for the estimate, including the license number and identity of the person who would perform the transfer (if known), and the license number and identity of the authorized recipient; and
 - B. the reasons why the Licensee has not transferred the source.

Copies shall also be sent to the Director, Division of Industrial & Medical Nuclear Safety, Office of Nuclear Material Safety & Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555; the Assistant General Counsel for Hearings and

Enforcement at the same address, and to the Regional Administrator, NRC Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas, 76011-8064.

After reviewing your response, the NRC will determine whether further action is necessary to ensure compliance with regulatory requirements.

FOR THE NUCLEAR REGULATORY COMMISSION

A handwritten signature in cursive script, appearing to read "Robert M. Bernero", is written over a horizontal line.

Robert M. Bernero, Director
Office of Nuclear Material Safety
and Safeguards

Dated at Rockville, Maryland
this 15 day of March 1994

Appendix: Modified License