14832

March 25, 1994

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

NRC STAFF'S STATUS REPORT ON SUBPOENA ENFORCEMENT

On March 9, 1994, Oncology Services Corporation (OSC) and representatives of the government held a conference with the United States District Court for the Middle District of Pennsylvania to discuss the enforcement of the NRC administrative subpoenas. The Court decided that it would review the material at issue from which OSC had redacted information and determine whether OSC's redaction was reasonable. In addition, as to other documents sought by the NRC, the parties agreed to meet at OSC's offices in an attempt to agree on the transfer of the information. A copy of the conference transcript is attached hereto as attachment 1.

Respectfully submitted,

Marian L. Zobler
Counsel for NRC Staff

Dated at Rockville, Maryland
this 25th day of March, 1994

D507

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,	:	
Plaintiff	:	
VS	:	
	:	(Richard P. Conaboy)
ONCOLOGY SERVICES,	:	
Defendant	:	NO. 93 - MC -207

BEFORE: THE HONORABLE
RICHARD P. CONABOY

DATE: WEDNESDAY,
MARCH 9, 1994

PLACE: FEDERAL BUILDING
SCRANTON, PA

REPORTER: SUZANNE A. MINELLO

G & G REPORTING AGENCY, INC.
701 SOUTH MAIN STREET
OLD FORGE, PENNSYLVANIA
(800) 624-8811 - (717) 457-8811

A P P E A R A N C E S:

For the Defendant:

ANDREA M. SHARRIN, ESQ.
UNITED STATES DEPT. OF JUSTICE
FEDERAL PROGRAMS BRANCH
901 E. STREET, N.W.
WASHINGTON, D.C. 20503

CHARLES E. MULLINS, ESQ.
U.S. NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555

For the Plaintiff:

MARCY L. COLKITT, ESQ.
ONCOLOGY SERVICES CORPORATION
2171 SANS DRIVE
STATE COLLEGE, PA

THE COURT: We met with counsel in regard to the request of the Plaintiff, the Petitioner, to enforce certain subpoenas through which the Petitioner is seeking information which it claims is reasonably related to its investigation of the Defendant or Respondent.

At the conference the Court was informed that there were three general areas in dispute. That those areas relate to weekly activity reports and notes and minutes and that notes and minutes of administrative and medical meetings; is that what you said?

MS. SHARRIN: Regional administrator meetings and medical director meetings.

THE COURT: The Respondent generally argues that they made these available, but they redacted information which was not felt to be reasonably related.

The Petitioner argues that much of the information in these documents might well be reasonably related.

The parties being unable to resolve that, the Court will review these materials to determine whether the redaction was reasonable or not.

The second area involved the payroll information wherein the Petitioner appears to be seeking the names and addresses and other information about all of the employees of the Defendant and those entities which the Defendant either owns or manages.

There is somewhat of an argument by the Respondent that they may not have the ability or the right to make some of these names and other information known.

The Respondent also argues that some of the employees may not be in a position to either know of or have information that is pertinent or reasonably related to this investigation.

The Petitioner argues that it needs to review the entirety of the payroll information so that judgment can be made as to which of these parties might need to be interviewed to determine whether or not they, indeed, do have information or knowledge that might lead to other information that is pertinent to the investigation.

The third area regards resumes and applications of all Defendant employees. Here again similar arguments are made as to the second

area of information.

After lengthy discussion of these matters, at the Court's suggestion the parties agree that counsel for both sides will meet at the Defendant's offices on dates to be selected in April of 1994.

The Court's suggestion is that the meetings should last no more than approximately six hours per day and should consume no more than two days.

It is the Court's suggestion that all of the information sought should at least be available on that day, and if the parties cannot agree on transfer of that information than they will thereafter within seven days of the meeting make a report to this Court outlining the areas that remain in dispute and the Court will thereafter attempt to devise a method to resolve those disputes.

(At this time the hearing in the above-captioned case was concluded.)

C E R T I F I C A T E

I, do hereby certify that before the taking of his/her deposition the said witness was by me first duly sworn to testify the truth, the whole truth and nothing but the truth, and that the above deposition was recorded in stenotype by me and reduced to typewriting under my supervision.

I further certify that the said deposition was taken before me on the date specified and at the place so specified.

I further certify that I am not a relative or employee or attorney or counsel of any of the parties, or a relative or employee of such attorney or counsel or financially interested directly or indirectly in this action.

Suzanne A. Minello

SUZANNE A. MINELLO
G & G REPORTING AGENCY, INC.
POST OFFICE BOX 208
OLD FORGE, PENNSYLVANIA 18518

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF'S STATUS REPORT ON SUBPOENA ENFORCEMENT" in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class, or as indicated by an asterisk through deposit in the Nuclear Regulatory Commission's internal mail system, this 25th 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. Peter S. Lam*
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, Esq.
General Counsel
Oncology Services Corp.
P.O. Box 607
Indiana, PA 15701-0607

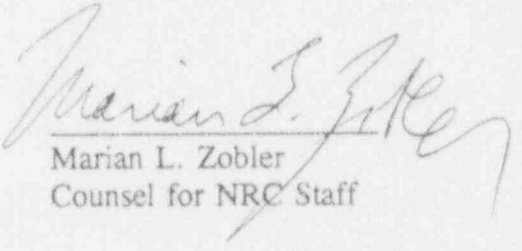
Kerry A. Kearney, Esq.
Joseph W. Klein, Esq.
Joseph R. Rodkey, Jr., Esq.
Counsel for Oncology Services Corp.
Reed Smith Shaw & McClay
Mellon Square
435 Sixth Avenue
Pittsburgh, PA 15219-1886

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

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

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. Zobler
Counsel for NRC Staff