



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

March 30, 1987

U.S. 150

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*3*  
*1 Ben*  
*2 Roy*  
*4 John*  
*Roger - is this as*  
*we discussed with*  
*John S.*

*Ben*  
*Yes*  
*BO*  
*BA*  
*9-2-87*

Martin Carlson  
Department of Justice  
Criminal Division  
P.O. Box 887  
Bem Franklin Station  
Washington, D.C. 20044

In the Matter of  
ADVANCED MEDICAL SYSTEMS, INC.  
(Byproduct Material License No. 34-19089-01)  
Docket No. 30-16055-SP; EA-86-155; ASLBP No. 87-545-01-SP

Dear Mr. Carlson

I am forwarding to you a copy of corrected page 5 of the "NRC Staff Motion For Stay of Proceeding" filed March 19, 1987, along with a copy of the forwarding letter sent to the Presiding Officer in the AMS proceeding.

Sincerely,

Colleen P. Woodhead  
Counsel for NRC Staff

*3-86-010*

*87040 20 289 XA*

*Robert G. O'Brien*

*3-86-010*  
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"irreparably harm any criminal investigation and could fatally prejudice any prosecution." Id. The Staff agrees with DOJ's perception that currently there are no immediate health and safety concerns with regard to AMS' continuation of service activities in light of the conditions imposed in the Regional Administrator's February 2, 1987 letter. <sup>4/</sup> Accordingly, the staff requests a stay of the proceeding for the reasons set out in the letter from DOJ and as discussed further below.

A. Legal Standards For Determining A Stay of A Civil Proceeding Pending Completion Of Criminal Proceedings

Suspension of administrative proceedings pending criminal investigation is not without precedent in NRC caselaw. In General Public Utilities Corporation (Three Mile Island Nuclear Station, Unit No. 2), CLI-83-24, 18 NRC 315, 318 (1983) the Commission considered resumption of an NRC civil investigation concerning leak rate tests after a suspension of that investigation because of a criminal investigation into the same matter. The Commission noted that, while NRC is not precluded from conducting its own proceedings at the same time as criminal investigations are being conducted, it has discretion to stay proceedings, postpone discovery or impose protective orders or conditions when required in the interests of justice, citing, United States v. Kordel, 397 U.S. 1,9-11 (1970) and SEC v. Dresser Industries Inc., 628 F.2d 1368,

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<sup>4/</sup> In the event that an immediate public health and safety concern arises, it is Staff's intent to take any action necessary. This is understood by DOJ.