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April 6, 1994

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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))	
)	

NRC STAFF'S STATUS REPORT ON CRIMINAL INVESTIGATION

Pursuant to the Atomic Safety and Licensing Board's Order (Prehearing Conference Order), dated February 1, 1994, the staff of the Nuclear Regulatory Commission (Staff) hereby submits a status report on the criminal investigation regarding one matter related to the above-captioned proceeding.

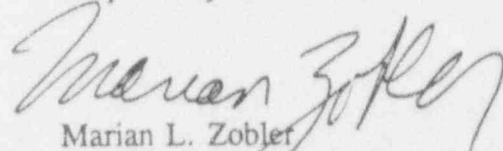
As noted in the Staff's first status report on criminal referrals to DOJ, dated February 7, 1994, one matter relative to this proceeding was determined by the Assistant United States Attorney for the Western District of Pennsylvania to warrant a criminal investigation into possible violations of federal law. "NRC Staff Status Report on Criminal Referrals to the Department of Justice," at 1-2. This matter involved possible false statements provided by Dr. James E. Bauer to the NRC regarding the incident at the Indiana Regional Cancer Center on November 16, 1992. *Id.* Since the filing of the "NRC Staff's Second Status Report on Criminal Referrals to the Department of Justice,"

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dated March 7, 1994, the Assistant United States Attorney for the Western District of Pennsylvania has determined that there exists no basis for the bringing of criminal charges with respect to the alleged false statements made during the course of the NRC's investigation of the incident involving the iridium source. As a result, the Assistant United States Attorney has declined prosecution with respect to this particular matter. See Letter to Barry Letts, Field Office Director, Region I from Constance M. Bowden, Assistant United States Attorney, dated April 6, 1994, attached hereto as Attachment 1.

Respectfully submitted,



Marian L. Zoblet
Counsel for NRC Staff

Dated at Rockville, Maryland
this 6th day of April, 1994

U.S. Department of Justice

*United States Attorney
Western District of Pennsylvania**633 United States Post Office & Courthouse
Pittsburgh, Pennsylvania 15219*

412/644-3500

April 6, 1994

Barry Letts
Field Office Director
Region I
Nuclear Regulatory Commission
King of Prussia, Pa.

Attention: Investigator Gerry Kenna

Re: Dr. Bauer et. al.; Allegations involving false
statements made in connection with the NRC's
investigation of the Iridium Source device left
in a patient of the Indiana Regional Cancer Center;

Dear Inspectors Letts and Kenna:

I have reviewed the material you submitted to me with respect to the above captioned matter. Having done so, I do not believe that there exists a basis for the bringing of criminal charges with respect to the alleged false statements made during the course of the NRC's investigation of the incident involving the Iridium Source which was left in the body of a patient of the Indiana Regional Cancer Center. As a result, this office is declining prosecution with respect to this particular matter.

Very truly yours,

FREDERICK W. THIEMAN
United States Attorney

A handwritten signature in cursive script, appearing to read "Constance M. Bowden".

CONSTANCE M. BOWDEN
Assistant U.S. Attorney

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NUCLEAR REGULATORY COMMISSION

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BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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In the Matter of)

ONCOLOGY SERVICES CORPORATION)

(Byproduct Material)
License No. 37-28540-01)

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

) Docket No. 030-31765-EA

) EA No. 93-006

CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF'S STATUS REPORT ON CRIMINAL INVESTIGATION" in the above-captioned proceeding have been served on the following through deposit in the Nuclear Regulatory Commission's internal mail system, or by facsimile transmission, as indicated by an asterisk, or by electronic mail with a conforming copy served by deposit in the Nuclear Regulatory Commission's internal mail system, as indicated by a double asterisk, this 6th day of April, 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

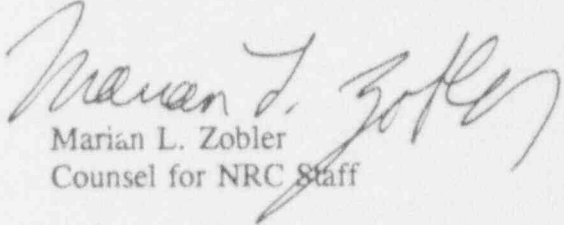
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Dr. Peter S. Lam**
Administrative Judge
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U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

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Office of Commission Appellate
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Marian L. Zobler
Counsel for NRC Staff