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April 22, 1994  
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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

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)	)	

MOTION TO COMPEL AND REPLY TO NRC STAFF'S  
RESPONSE AND OBJECTIONS TO LICENSEE'S REQUEST  
FOR PRODUCTION OF DOCUMENTS DATED MARCH 8, 1994  
AND NRC STAFF'S MOTION FOR PROTECTIVE ORDER

OSC files this Motion To Compel And Reply To NRC Staff's Response And Objections To Licensee's Request For Production Of Documents Dated March 8, 1994 And NRC Staff's Motion For Protective Order and in support thereof states as follows.

On April 7, 1994, the Staff responded to a single document request propounded by the Licensee requesting the following:

Any and all transcripts, statements, notes and/or summaries of statements made to the NRC, the IIT Team, the Office of Investigations and/or any other department/agent/agency of the NRC in connection with the investigation of Oncology Services Corporation.

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With respect to one document, the Staff has objected that producing that document, an interview dated November 9, 1993, could reasonably be expected to "disclose the identity of a confidential source" and that the document is not relevant. The Staff's objection is meritless. Clearly, the identity of the source can be protected through appropriate redaction. Further, it is not the role of the Staff to determine relevance. Therefore, OSC requests that such document be produced immediately, or alternatively that the Board review the document for relevance. Finally, because the Staff's position is based on "source confidentiality", OSC requests that if OSC identifies the name of the source confidentially to the Board (under seal) that the document should be produced because the basis for the objection would be moot.

With respect to the Staff's objections pursuant to 10 C.F.R. 2.790(a)(6), OSC is not seeking to compel.

However, on information and belief OSC avers that the Staff has not turned over all responsive documents. For example, notes from the inspectors who did the inspections at Exton and Mahoning Valley were turned over. Similarly, virtually no notes from any of the IIT Team personnel were turned over. Is it the Staff's position that no notes exist for inspections? OSC finds this position to be less than credible and demands that these existing documents be immediately turned over and that affidavits be executed by all relevant NRC personnel indicating what documents

they had, currently have, and what was given to the Staff, by date. OSC cannot rely on anything less.

For the foregoing reasons and as specifically set forth herein, the NRC Staff's Motion for a Protective Order should be denied, the Staff's objections overruled and the Staff should be compelled to produce the documents not previously produced that clearly exist and which are covered by OSC's discovery request.

Respectfully submitted,

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Dated: April 22, 1994

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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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OFFICE OF SECRETARY  
DOCKETING & SERVICE  
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IN THE MATTER OF:

No. 37-28540-01

ONCOLOGY SERVICES CORPORATION  
BY-PRODUCT MATERIAL LICENSE

Docket No. 30-31765-EA

E.A. No. 93-006

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the Motion To Compel And Reply To NRC Staff's Response And Objections To Licensee's Request For Production Of Documents Dated March 8, 1994 And NRC Staff's Motion For Protective Order was served on the following this 22nd day of April 1994, as indicated:

G. Paul Bollwerk, III, Chairman  
Administrative Judge  
Atomic Safety & Licensing Board  
4350 East West Highway  
4th Floor  
Bethesda, MD 20814  
By Mail and By Fax (301-492-7285)

Dr. Peter S. Lam  
Administrative Judge  
Atomic Safety & Licensing Board  
4350 East West Highway  
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Bethesda, MD 20814

Dr. Charles N. Kelber  
Administrative Judge  
Atomic Safety & Licensing Board  
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Adjudicatory File (2)  
U.S. Nuclear Regulatory  
Commission  
Washington, DC 20555

Marian L. Zobler  
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Office of the Secretary (2)  
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Commission  
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Section  
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Atomic Safety & Licensing Board  
Panel (1)  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

Office of Commission  
Appellate Adjudication (1)  
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Commission  
Washington, DC 20555

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