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UNITED STATES  
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

MAY 13 1994

Docket No. 15000004  
License No. 0373-70 California  
EA Nos. 93-201 and 93-273

Richardson X-Ray, Inc.  
ATTN: Mr. E. Gail Flagor  
President  
12707 Rives Avenue, Suite F  
Downey, California 90242

Dear Mr. Flagor:

SUBJECT: ORDER IMPOSING CIVIL MONETARY PENALTIES - \$20,000

This refers to your letter dated November 30, 1993, in response to our November 5, 1993 Notice of Violation and Proposed Imposition of Civil Penalties (Notice). Our letter and Notice described six violations of NRC requirements which were identified during an NRC inspection conducted on July 29 and 30, 1993. The failure to perform surveys of the radiographic exposure device and the failure of the radiographer to provide supervision of the radiographer's assistant were categorized as a Severity Level III problem. In addition, the failure to wear an alarm ratemeter was categorized as a Severity Level III violation. The violations for failure to adequately post the radiation area and high radiation area, failure to train an individual working as a radiographer's assistant, and failure to block or brace radioactive materials during transport were categorized at Severity Level IV.

To emphasize the need for effective management oversight of your Radiation Safety Program, civil penalties in the amount of \$25,000 were proposed in the November 5, 1993 Notice. In your November 30, 1993 response to the Notice, you admitted the violations assessed civil penalties, but requested that the proposed civil penalties not be imposed because of your corrective actions and because of your alleged inability to pay a \$25,000 civil penalty.

After consideration of your November 30, 1993 response, we have concluded, for the reasons given in the Appendix attached to the enclosed Order Imposing Civil Monetary Penalties (Order), that the Licensee's timely and extensive corrective actions support a \$5,000 reduction of the \$25,000 civil penalties proposed in the November 5, 1993 Notice, based on mitigation consistent with the Enforcement Policy. Accordingly, we hereby serve the enclosed Order on Richardson X-Ray, Inc., imposing civil monetary penalties in the amount of \$20,000.

Regarding payment of civil penalties, the NRC's Enforcement Policy, 10 CFR Part 2, Appendix C states in part that:

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" ... it is not the NRC's intention that the economic impact of a civil penalty be so severe that it puts a licensee out of business ... or adversely affects a licensee's ability to safely conduct licensed activities ... Normally, if a licensee can demonstrate financial hardship, the NRC will consider payment over time, including interest, rather than reducing the amount of the civil penalty."

In your November 30, 1993 response, you indicated that imposing the civil penalties would cause a great financial burden on Richardson X-Ray, Inc. In a January 3, 1994 letter, the NRC requested that you provide financial information for Richardson X-Ray, Inc. and Ultrasonic Field Services Corporation, a company also owned and operated by members of the same family, to support Richardson's alleged inability to pay the proposed \$25,000 civil penalties.

Your letter of February 3, 1994, provided financial information for Richardson X-Ray, Inc., but declined to provide information for Ultrasonic Field Services Corporation, arguing that the two companies are under separate ownership and that the proposed civil penalties should not be connected with Ultrasonic Field Services Corporation. Despite the lack of financial information relating to Ultrasonic Field Services Corporation, our review of your February 3, 1994 letter and financial information for Richardson X-Ray, Inc. determined that Richardson X-Ray, Inc. has sufficient financial resources to pay the proposed civil penalties over a period of one year, including interest, without putting Richardson out of business or adversely affecting its ability to safely conduct licensed activities. Accordingly, a payment schedule has been developed and is enclosed in the form of a Promissory Note in Payment of the Civil Penalties (Note).

If you choose to pay the civil penalties in full, payment should be made within 30 days of the date of this Order, by check, draft, money order, or electronic transfer, payable to the Treasurer of the United States and mailed to Mr. James Lieberman, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, D.C. 20555. If you elect to pay the civil penalties over time, you must sign in duplicate and return the Note within 30 days of the date of this letter to Mr. James Lieberman, Director, Office of Enforcement, U. S. Nuclear Regulatory Commission, Mail Stop 7H5, Washington, D.C. 20555. Upon receipt of your signed Note, we will promptly countersign it and send you a copy.

If you choose to request a hearing, you must notify us within 30 days of the date of this Order and follow the instructions in Section V of the Order. The only issue to be considered at such hearing would be whether, on the basis of the violations that you admitted, this Order should be sustained. Failure to respond to any of the above approaches may result in this case being referred to the Department of Justice.

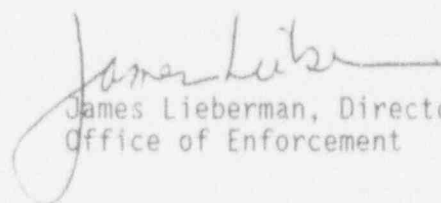
In addition, in your November 30, 1993 response you partially denied one of the Severity Level IV violations in Section II of the Notice involving radiation area posting in accordance with 10 CFR 20.203(b). You admitted that you had failed to properly post the high radiation area but denied that you

failed to post the radiation area. The NRC does not agree that you had conspicuously posted the radiation area. As stated in the NRC inspection report provided to you on August 17, 1993, approximately two-thirds of the radiation area perimeter adjacent to the sand dunes was not posted. Your assumption that no one could have approached the radiation area from the direction of the sand dunes is not valid, and the entire accessible radiation area perimeter is required to be conspicuously posted. Therefore, the NRC concludes that this violation occurred as stated in the Notice. We will review the effectiveness of your corrective actions during a subsequent inspection.

We have reviewed your responses dated December 1, 1993, February 1, 1994, and February 4, 1994 to the NRC Demand for Information dated November 5, 1993. Based on your response we have decided that no further enforcement action is warranted at this time. Compliance with NRC requirements affords a significant level of protection from the radiological hazards of performing radiography. The NRC expects no less than full compliance with all applicable regulatory requirements, and willful disregard for those requirements is not tolerated. You should remind your employees that on September 16, 1991, the NRC revised its regulations to allow the issuance of orders and other civil sanctions to be taken directly against unlicensed persons who, through their deliberate misconduct, cause a licensee to be in violation of NRC requirements. Furthermore, we expect licensee's to take strong action to monitor and oversee compliance with NRC requirements. Any further noncompliance with NRC requirements in the future will result in increased enforcement action.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of the Demand for Information, your responses, this letter, its enclosure, and any further response will be placed in the NRC Public Document Room.

Sincerely,

  
James Lieberman, Director  
Office of Enforcement

Enclosures: As Stated

cc:  
Public Document Room (PDR)  
Nuclear Safety Information Center (NSIC)  
State of California