

CHEMETRON CORPORATION

(An Indirect Subsidiary of
Sunbeam-Oster Company, Inc.)

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Pittsburgh, PA 15222

December 17, 1990

Mr. Donald J. Srenawski
Project Manager
Fuel Facilities and Contaminated Sites
U.S. Nuclear Regulatory Commission
799 Roosevelt Road
Glen Ellyn, Illinois 60137

**Subj: Chemetron Corporation Response to
Inspection Report No. 040-08724/90001**

Dear Sir:

This letter is in response to your letter dated November 16, 1990, which transmitted Inspection Report No. 040-08724/90001. In that report the NRC identified one apparent violation. The following provides a reply to the apparent violation pursuant to 10 C.F.R. § 2.201.

A. Restatement of Apparent Violation

The NRC statement of the violation is as follows:

10 CFR 20.207(a) requires that licensed materials stored in an unrestricted area be secured against unauthorized removal from the place of storage. As defined in 10 CFR 20.3(a)(17), an unrestricted area is any area access to which is not controlled by the licensee for purposes of protection of individuals from exposure to radiation and radioactive materials.

Contrary to the above, on October 3, 1990, licensed material (depleted uranium) was stored in

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an unrestricted area and was not secured against unauthorized removal from the place of storage. Specifically, holes and gaps in the fence surrounding the Bert Avenue landfill site allowed entry into an area that contained licensed materials thereby making it an "unrestricted area." Therefore, the licensed material stored in this "unrestricted area" was not secured against unauthorized removal.

This is a Severity Level IV violation (Supplement IV).

B. Response to Violation

1. Corrective Steps Taken and Results Achieved

This response to the Notice of Violation presents information from the time Chemetron Corporation ("Chemetron") took direct responsibility over the site from its previous contractor. This occurred in May 1990. Since that time, during normal working hours regularly assigned site personnel performing both managerial and field work were responsible for assuring site security. During other than normal working hours, a contract security company provided personnel coverage for the site. Thus, considering the type of contamination and the concentrations present, access to the Bert Avenue site was sufficiently controlled so as to assure that licensed material was secured against unauthorized removal.

As the inspection report reflects (pp. 2-3), at the time of the inspection Chemetron had already identified a number of areas associated with the site perimeter fencing that required enhancement. At that time, Chemetron was already in the process of ensuring the overall integrity of the perimeter fencing. At the time of the inspection, Chemetron had instituted 24-hour security protection supplementing the security contractor with off-duty local police. Immediately following the inspection, however, Chemetron promptly initiated further remedial steps to enhance measures already taken or planned to ensure that licensed materials were secured against unauthorized removal.

Referring to Attachment 1, the following specific actions have been taken or are planned to ensure the integrity and proper function of the perimeter fencing:

- o The entire perimeter fencing is presently being topped with three strands of barbed wire.
- o The gaps under the north and east fence segments (i.e., Item 1) were backfilled with uncontaminated earth, rubble and railroad ties. They will be permanently

closed with additional fencing material. The gaps between the welded wire fence and the new fence segments in the southeast corner (i.e., Item 2), and the gap in the 29th Street gate (i.e., Item 2) were repaired.

- o The welded wire fence along the east side (i.e., Item A), is being replaced with a six foot high, cyclone fence.
- o The fence segment and gate at the end of 29th Street (i.e., Item B) is being replaced -- eliminating the gate.
- o The gate at the end of Bert Avenue, as well as the fencing next to the gate which separates the contaminated area from the non-contaminated area (i.e., Item C from Item B to D), is being replaced.
- o The fencing outside of the contaminated area (but enclosing owner-controlled area) (i.e., Items D and E) is being inspected and repaired or replaced as necessary. Vegetation inside the fenced area will be removed, as necessary.
- o The segment comprising the southern section of the west side of the perimeter fencing (i.e., Item F) is being replaced using the existing poles for support.
- o The west section of the perimeter fencing (i.e., Item G), because it is located on a steep slope, is being replaced with fence segments to be erected on the adjacent playing field. Chemetron has requested permission from the property owner to erect the new fencing; if permission is not granted, the existing fencing will be cleared of vegetation and repaired or replaced, as necessary. The playhouse will be dismantled.

2. Corrective Steps That Will Be Taken To Avoid the Potential for Future Violations

- o After heavy rains, a visual check will be made of the perimeter fencing to determine if any washout has occurred along the fence bottom. If so, these areas will be promptly repaired.
- o On a periodic basis, inspection of the interior of the perimeter fencing will be made to determine if vegetation must be removed.
- o Regarding mechanisms which may be used to climb the fencing (e.g., the steps and ladders that were

discovered on adjacent private property), the installation of barbed wire around the entire perimeter and the posting of signs should be sufficient to deter persons from intruding upon the owner-controlled property.

- o Upon completion of the enhancements to the perimeter fencing, Chemetron will continue modified security patrols during times when intrusion attempts are more likely. For security reasons, the specific hours of patrols will be provided to the NRC upon request.

3. Date When Full Compliance Will Be Achieved

Considering the measures in place, Chemetron submits it is presently in compliance with the cited regulation. Those actions described above not already completed are scheduled to be completed by the middle of January.

C. Application of Enforcement Discretion

In addition to the response provided above, Chemetron requests that the NRC consider its policy of enforcement discretion and void the violation. The Enforcement Policy (10 C.F.R. Part 2, Appendix C), NRC allows for the exercise of enforcement discretion to encourage and support licensee initiative for self-identification and correction of problems. Specifically, Section V.G.1 of the Enforcement Policy sets forth five criteria upon which NRC may base its discretion. Chemetron submits that the circumstances of this matter fulfill these criteria.

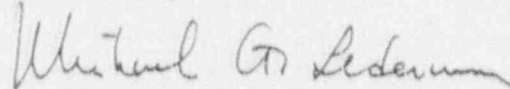
First, Chemetron had already identified problems with the integrity of the fencing prior to the inspection and had initiated measures to correct them. Second, the Notice of Violation characterized the violation at Severity Level IV. Third, considering the nature of the licensed material, the matter did not (nor did it have the potential to) raise a significant safety issue. Thus, there was no reporting requirement under 10 C.F.R. Part 20. Fourth, a substantial part of the remedial action has been completed and the remainder will be completed in a reasonable time frame. Finally, the violation cannot be characterized as willful or one that could have been prevented by corrective action for a prior violation.

In sum, Chemetron believes that enforcement discretion is warranted under the Enforcement Policy. The enforcement history for this license is good and, as the NRC is aware, the new management is striving to ensure full and continued compliance with all NRC regulations and requirements. Therefore, Chemetron respectfully request that the violation be withdrawn as a matter

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Should you have any questions regarding this response,
please contact Dr. Barry Koh at (301)252-3180.

Sincerely,



Michael G. Lederman
President
Chemetron Corporation

Attachment

cc: NRC Document Control Desk
Mark J. Wetterhahn (W&S)
Dr. Barry Koh