

18 NOV 1990

From: Thomas E. Murray, 802 Prospect Street Apt. 601
Honolulu, HI. 96813

To: Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief,
Docketing and Service Section Washington, D.C. 20555

Subj: REQUEST FOR HEARING

Ref: (a) NRC Order, Docket No. 030-30870 of 02 NOV. 1990
(b) NRC License No. 53-23288-01
(c) NRC Title 10 Code of Federal Regulations

Encl: (1) Source Utilization Log for 23 and 25 OCT. 1990
(2) American Pipe and Boiler Radiography Reports

1. On 05 November 1990 I received ref. (a). This letter is provides an answer to ref. (a) section V. My purpose is to provide proof which demonstrates that consideration for a rescission or relaxation of the order is warranted. To wit I did not willfully violate the provisions of ref. (b) and (c) thereby placing the health and welfare of the general public in jeopardy. Notwithstanding the above action I request a hearing on this matter.

2. The following are answers to the allegations of ref. (a) section II para. (1) through (5);

(a) Radiation Boundary Surveys. Although reference (b) section 4, para 2.5 requires a 'physical' survey of the 2 mR/hr boundary, ref. (c) 20.201 only requires an 'evaluation' of the radiation hazards. Prior radiographic operations, mathematical calculations, and prior physical surveys on the same jobsite had well established the radiation boundaries. Therefore the more restrictive requirements of ref. (b) was violated but not the requirements of ref. (c).

(b) Exposure Device Surveys. On occasions, I realize that I did not conform to the requirements of ref. (b) and (c) (specifically surveying the exposure device) however, at all times I was wearing a audible rate meter and counted the turns on the crank ensuring that the turns out were the same as the turns in, hence ensuring that the source was fully housed in the exposure device. In addition, calibrated radiacs were on the jobsite and when moving the exposure device it was always locked during repositioning.

(c) Posting and Control of Radiation Boundaries. As can be seen from Figure 1 the boundaries were established at greater distances than necessary based on isodose lines (i.e. 2 mR exposure in any one hour based on actual exposure times and number of exposures). Inaccessible areas were not posted/roped off. Accessible areas were posted.

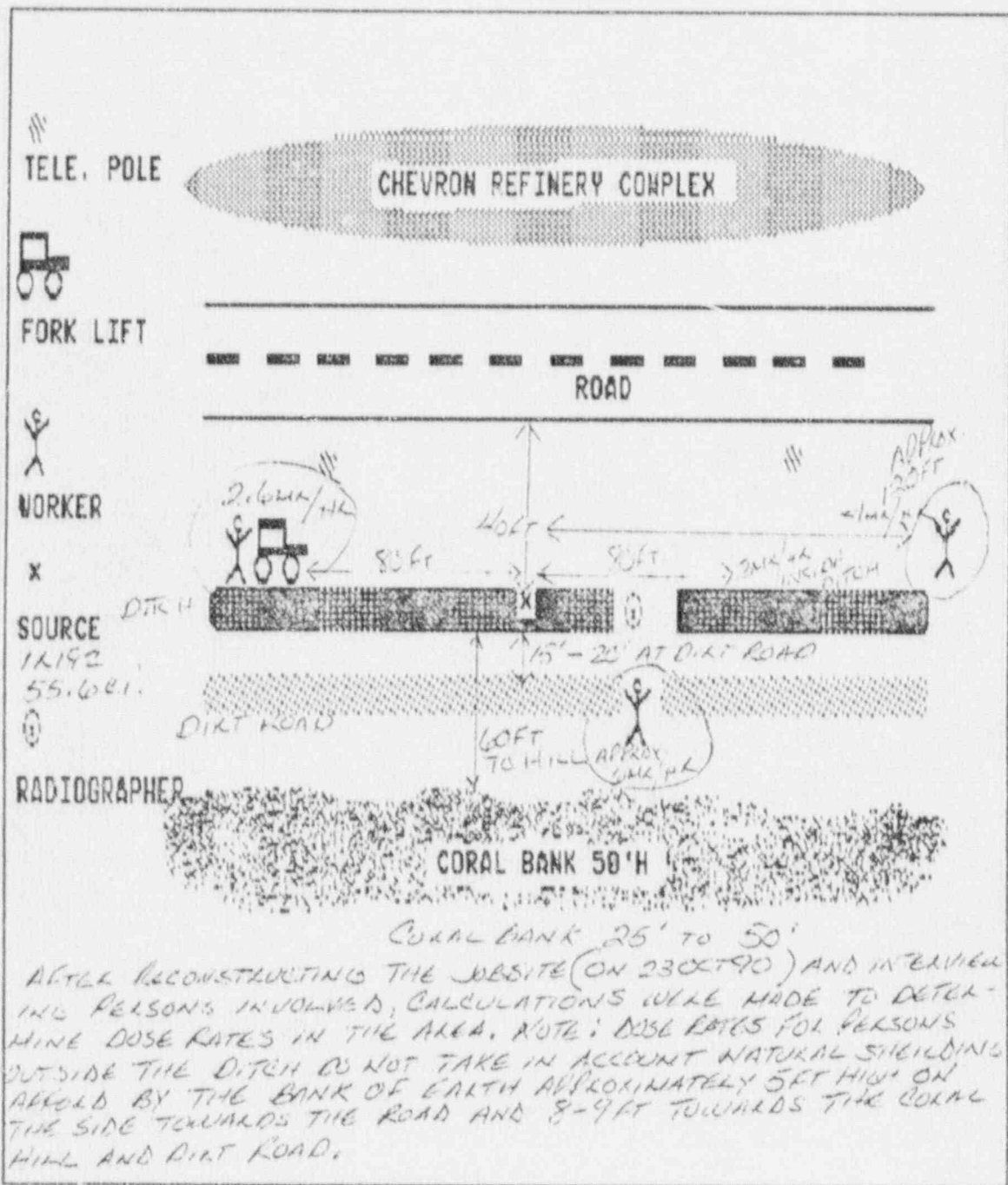


Figure 1 DRAWING OF WORK SITE (CAMPBELL INDUSTRIAL PARK)

In addition to the natural shielding in the area (i.e. earth wall of pipe ditch), collimation ($1/20^{\text{th}}$), sand bags, staged piping, industrial equipment, etc, all acted as shielding thus reducing the radiation intensities in the surrounding area. The primary beam was deliberately placed to limit personnel exposure. Personnel who violated the radiation boundaries did not receive doses in excess of the limits established in ref. (c) Part 20 and later verified due to the aforementioned precautions. It is important to note that all the personnel who violated the established boundaries were briefed on the associated radiation hazards of industrial radiography.

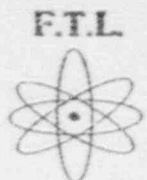
3. In conclusion, it was factors such as complacency and the jobsites isolation from the general public NOT WILLFUL violations that lead to this order.

I did not knowingly provide the NRC with false information during the deposition. I was extremely mentally stressed on the day of the deposition for two reasons. Firstly, I did not know why I was being summoned by the NRC. Secondly my mental frame of mind was on my wife in labor. She gave birth hours after the deposition. After walking-out of the deposition several times and then being coaxed back in with insinuations of severer consequences involved with being subpoenaed later and not appearing to cooperate with the NRC, I eventually started answering questions with the intent of just concluding the deposition. I realize now that I made a mistake by succumbing to these insinuations in the then current frame of mind.

I do not contend non-compliance, on the contrary I realize my mistakes. I do feel that the order is extremely severe all things considered. Losing my job for three years will cause great detriment to me and my family. It is with the utmost sincerity that I wish to regain the confidence of the NRC.

Sincerely,

Thomas E. Murray



FINLAY TESTING LABORATORIES

99-940 IWAENA ST.
AIEA, HAWAII 96701

Report To: American Pipe & Boiler

Project: HIRI Petroleum Pipeline

REPORT OF RADIOGRAPHIC INSPECTION

Report No.: 13

Date 10/23/90

Order No.:

Job No. 8078

Code: API 1104

Film No. Weld No.	Location	View	Film Size	Thickness	Radiation Source	S.F.D.	Results	Remarks
1	MGS 99 LE	0-13	4½"X17"	.531"	IR-192	13"	Accept	38 sec EXPOSURE
2	12" NPS	13-26	/	/	/	/	/	
3	/	26-0	/	/	/	/	/	
4	MGS 101 E	0-13	/	/	/	/	/	
5	12" NPS	13-26	/	/	/	/	/	
6	/	26-0	/	/	/	/	/	
7	DSL 101 F	0-13	/	/	/	/	/	
8	12" NPS	13-26	/	/	/	/	/	
9	/	26-0	/	/	/	/	/	
10	DSL 99 F	0-13	/	/	/	/	/	
11	12" NPS	13-26	/	/	/	/	/	
12	/	26-0	/	/	/	/	/	
13	JET 99 F	0-11	/	.490"	/	11"	/	25 sec EXPOSURE
14	10" NPS	11-22	/	/	/	/	/	
15	/	22-0	/	/	/	/	/	
16	JET 101 F	0-11	/	/	/	/	/	
17	10" NPS	11-22	/	/	/	/	/	
18	/	22-0	/	/	/	/	/	
19	B.O. 87 BH BH	0-13	/	.719"	/	20"	/	WELD THAT WAS BEING SAJOT
20	20" NPS	13-26	/	/	/	/	/	ON 23 OCT 90 IN THE AREA DEFECTED
21	/	26-39	/	/	/	/	/	IN FIGURE 1 (1.5 MIN EXPOSURE)

* Legend 1-Minor 2-Moderate 3-Severe

A - Incomplete penetration
B - Lack of fusion
C - Slag inclusions
D - Scribe

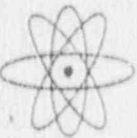
E - Porosity
F - Crack(s)
G - High low
H - Burn through

Radiographer: Thomas Murray

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ASNT Level II

MANUAL RECORDS



Report No: 13

Date 10/23/90

Order No.

Job #: 8078

Code: API 1104

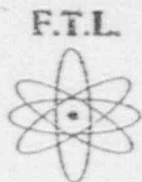
Report To: American Pipe & Boiler

Project: HIRI Petroleum Pipeline

Film No. Weld No.	Location	View	Film Size	Thickness	Radiation Source	S.F.D	Results	Remarks
22	B.O. 87 BH BH	39-52	4 1/2" X 17"	.719"	IR-192	20"	ACCEPT	
23	/	52-0	/	/	/	/	/	
24	B.O. 100 FL FL	0-13	/	/	/	/	/	
25	20" NPS	13-26	/	/	/	/	/	
26	/	26-39	/	/	/	/	/	
27	/	39-52	/	/	/	/	/	
28	/	52-0	/	/	/	/	/	
29	DSL 92 R-1	15-28	/	.531"	/	12"	/	

* Legend 1-Minor 2-Moderate 3-Severe

A - Incomplete penetration
B - Lack of fusion
C - Slag inclusions
E - Porosity
F - Cracks
G - High low



FINLAY TESTING LABORATORIES

99-940 IWAENA ST.
AIEA, HAWAII 96701

REPORT OF RADIOGRAPHIC INSPECTION

Report No.: 14
Date: 10-27-90
Order No.:
Job No.: 8078
Code: API 1104

Report To: American Piping & Boiler

Project: Hawaiian Independent Refineries Petroleum Pipeline

Film No. Weld No.	Location	View	Film Size	Thickness	Radiation Source	S.F.D.	Results	Remarks
1	Jet 95 E	0-11	4½x17	.490	IR192	11"	Accept	EXPOSURE TIME: 25 SEC.
2	10" NPS	11-22	/	/	/	/	/	
3	/	22-0	/	/	/	/	Reshoot	
4	MGS 97 E	0-11	/	.531	/	13"	Accept	EXPOSURE TIME: 38 SEC.
5	12" NPS	11-22	/	/	/	/	/	
6	/	22-0	/	/	/	/	/	
7	B.O. 95 HH, LF	0-13	/	.719	/	20"	/	EXPOSURE TIME: 1.5 MIN.
8	20" NPS	13-26	/	/	/	/	/	
9	/	26-39	/	/	/	/	/	
10	/	39-52	/	/	/	/	/	
11	/	52-0	/	/	/	/	/	
12	B.O. 97 BH, FL	0-13	/	/	/	/	/	SHOT ON 25 OCT 90
13	20" NPS	13-26	/	/	/	/	/	
14	/	26-39	/	/	/	/	/	
15	/	39-52	/	/	/	/	/	
16	/	52-0	/	/	/	/	/	
17	B.O. 99 BH, FL	0-13	/	/	/	/	Reshoot	
18	20" NPS	13-26	/	/	/	/	Accept	
19	/	26-39	/	/	/	/	/	
20	/	39-52	/	/	/	/	/	
21	/	52-0	/	/	/	/	/	

*Legend 1-Minor 2-Moderate 3-Severe

A - Incomplete penetration
B - Lack of fusion

E - Porosity
F - Cracks

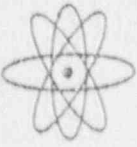
Radiographer: Thomas Murray

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F.T.L.

FINLAY TESTING LABORATORIES

99-940 IWAENA ST.
AIEA, HAWAII 96701



Report To: American Piping & Boile.

REPORT OF RADIOGRAPHIC INSPECTION

Report No.: 14
Date: 10-27-90
Order No.:
Job No.: 8078
Code: API 1104

Project: Hawaiian Independent Refineries Petroleum Pipeline

Film No. Weld No.	Location	View	Film Size	Thickness	Radiation Source	S.F.D.	Results	Remarks
22	B.O. 101 BH, FL	0-13	4½x17	.719	IR192	20"	Accept	
23	20" NPS	13-26	/	/	/	/	/	
24	/	26-39	/	/	/	/	/	
25	/	39-52	/	/	/	/	/	
26	/	52-0	/	/	/	/	/	

*Legend 1-Minor 2-Moderate 3-Severe
A-Incomplete penetration E-Porosity
B-Film artifacts C-Cracks

DAILY UTILIZATION LOG

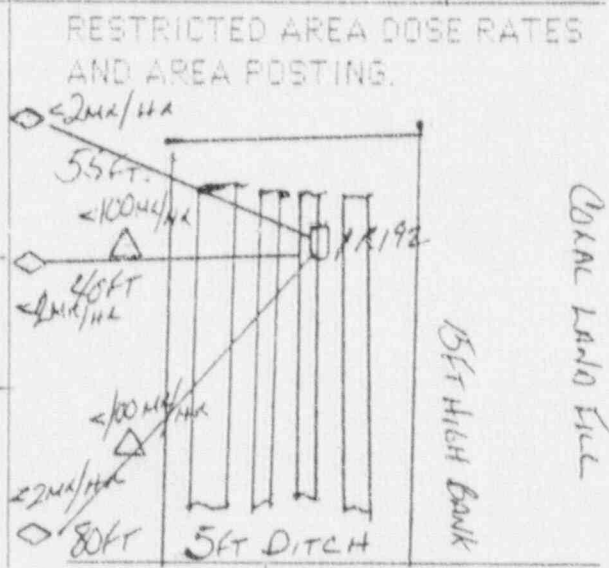
SOURCE TYPE 1R192 CURIES 54.5 SERIAL NO # 2812

EXPOSURE DEVICE: MFG TECH OPS SERIAL NO # 3131 MODEL 660

JOB SITE: ALB Hike PIPELINE CAMPBELL PARK

PERSONNEL NAME	CLASSIFICATION	DOSIMETER READING		
		INITIAL	FINAL	DOSE
<u>T. Murray</u>	<u>RADIOGRAPHER</u>	<u>0</u>	<u>3mR</u>	<u>3mR</u>

VEHICLE SURVEYS:
 10MR/HR or less at 211 JM (79.74")
 2MR/HR or less in Passenger Compartment JM
 Record Highest Reading Obtained from Vehicle Surface (4 SIDES) 4mR/HR
 SURVEY METER: VICTORLIN
 MODEL 492 S/N 806
 CAL DUE DATE



- DAILY EQUIPMENT INSPECTION:
1. Check guide Tube & Crank Cables for Kinks & Tears JM
 2. Check Clanking Assembly for Discrepancies & Ensure Proper Functioning JM
 3. Check all Connecting Fittings & Pigtail. JM
 4. Ensure all Safety Plugs on Camera Shipping Container are in place JM
 5. Check Audible Ratemeter JM
- SIGN: _____

Source Removed	Source Survey Prior to Storage
<u>1030 25OCT90</u>	<u>6 in' 1 Meter</u>
Source Returned	<u>6mR/HR < 1mR/HR</u>
<u>1800 25OCT90</u>	
Survey Storage Container <u>< 1mR/HR</u>	

RADIOGRAPHER: [Signature] DATE: 25OCT90

DAILY UTILIZATION LOG

SOURCE

TYPE 1L192

CURIES: 56

SERIAL NO # 2812

EXPOSURE DEVICE:

MFG TECH OPS.

SERIAL NO # 3131

MODEL 6660

① JOB SITE: APB PIPELINE ② Hill, REFINERY, CAMPBELL PARK

PERSONNEL NAME	CLASSIFICATION	DOSIMETER READING		
		INITIAL	FINAL	DOSE
<u>T. MULLAY</u>	<u>RADIOGRAPHER</u>	<u>∅</u>	<u>13mR</u>	<u>13mR</u>

VEHICLE SURVEYS:
 10MR/HR or less at 2M JM (79.74")
 2MR/HR or less in JM
 Passenger Compartment
 Record Highest Reading Obtained
 from Vehicle Surface (4 SIDES) <1mR/HR
 SURVEY METER: VICTOLEEN
 MODEL 400 S/N C521
 CAL DUE DATE 20 DEC 90

- DAILY EQUIPMENT INSPECTION:
1. Check guide Tube & Crank Cables for Kinks & Tears JM
 2. Check Clanking Assembly for Discrepancies & Ensure Proper Functioning. JM
 3. Check all Connecting Fittings & Pigtail JM
 4. Ensure all Safety Plugs on Camera Shipping Container are in place JM
 5. Check Audible Ratemeter JM

SIGN:

RESTRICTED AREA DOSE RATES AND AREA POSTING.
 ① RADIOGRAPHY PERFORMED IN 5 FT DEEP DITCH. "HIGH RADIATION" SIGNS POSTED 10 FT FROM DITCH. "RADIATION" SIGNS POSTED APPROXIMATELY 40 FT FROM DITCH.
 ② POSTED RADIATION BOUNDARIES AT 75 FT FROM SOURCE. HIGH RADIATION AT 15 FT FROM SOURCE. SHOT (4) 20" (2) 10" (1) 14" PIPES ALL ON GROUND.
 EXPOSURE TIME = 24 MIN @ 1.5 HR.

Source Removed	Source Survey Prior to Storage
<u>1100 23 OCT 90</u>	<u>6 in' 1 Meter</u>
Source Returned	
<u>1830 23 OCT 90</u>	<u>6mR/HR <1mR/HR</u>
Survey Storage Container <u><1mR/HR</u>	

RADIOGRAPHER:

James J. Ray

DATE:

23 OCT 90

participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules and Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition, and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceedings. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert

opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the application under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, at 2120 L Street, NW., Washington, DC by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-8700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Seymour H. Weiss, Petitioner's name and telephone number; date petition was mailed; Arkansas Tech University; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555 and to Jeff Bell, Deputy Attorney General, State of Arkansas, 200 Tower Building, 4th and Center Streets, Little Rock, Arkansas 72201, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the

presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for construction permit and facility operating license dated November 13, 1989, as supplemented on December 19, 1989 and April 25, 1990, which is available for public inspection at the Commission's Public Document Room at 2120 L Street, NW., Washington, DC 20555.

Dated at Rockville, Maryland this 5th day of November 1990.

For the Nuclear Regulatory Commission,
Seymour H. Weiss,
*Director, Non-Power Reactor,
Decommissioning and Environmental Project
Directorate, Division of Reactor Projects—III,
IV, V and Special Projects, Office of Nuclear
Reactor Regulation.*

(FR Doc. 90-26695 Filed 11-9-90; 8:45 am)

BILLING CODE 7590-01-81

[Docket No. 030-30870; License No. 53-23288-01 EA 90-190]

In the matter of Fewell Geotechnical Engineering, Ltd., Pearl City, HI, Order Modifying License (Effective Immediately)

I

Fewell Geotechnical Engineering, Ltd. (FGE or Licensee) is the holder of Byproduct Material License No. 53-23288-01 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR part 34. The licensee authorizes the Licensee to receive, possess, and utilize sealed sources of Iridium 192 in industrial radiographic exposure devices. The license was issued on January 26, 1989, was most recently amended on September 29, 1989, and is due to expire on January 31, 1994.

II

Under 10 CFR 20.105 and 20.201 and under FGE License Condition 15 on page 3 of the license and FGE Operating and Emergency Procedures ("OEP"), personnel performing licensed activities under FGE's license are required to conduct radiation surveys to establish the boundaries of restricted areas (OEP section IV, paragraph 2.5). In addition, during radiographic operations, personnel are required to determine that the sealed source is returned to the fully shielded position after each source exposure (10 CFR 34.43(b); OEP section IV, paragraph 2.6), to secure the sealed

source assembly in the shielded position after each source exposure (10 CFR 34.22(a) OEP section IV, paragraph 2.6), to post and rope off the 2mR/hr boundary (OEP section IV, paragraphs 2.2. and 2.5), and to prevent entry into the restricted area of individuals other than radiographers and radiographer's assistants (OEP section I, paragraphs 5; OEP section IV, paragraph 2.5). Finally, information provided to the NRC by licensee personnel must be complete and accurate in all material respects (10 CFR 30.9).

Thomas E. Murray, a radiographer for the Licensee, has been a radiographer since December 1967, having satisfied the experience, training, and examination requirements of at least two NRC licensees (the U.S. Navy and FGE). In accord with 10 CFR 34.31, examinations by NRC licensees must include demonstrations by radiographer candidates evidencing their understanding of NRC requirements, including licensee operating and emergency procedures. During an NRC inspection conducted on October 4, 1990, Mr. Murray demonstrated a thorough understanding of proper procedures for surveys, source securing, and control of access into restricted areas.

An NRC investigator and an NRC inspector observed Mr. Murray conduct radiographic operations on October 23 and 25, 1990 at Campbell Industrial Park, Oahu, Hawaii, contrary to the above-referenced NRC requirements as follows:

- (1) On October 25, 1990, Mr. Murray conducted radiographic operations without performing surveys to establish the radiation boundary;
- (2) On October 23 and 25, 1990 Mr. Murray failed to rope off any portion of the radiation boundary, and failed to post signs for most of that boundary;
- (3) On October 23, 1990, on at least 12 occasions and on October 25, 1990, on at least 5 occasions, Mr. Murray failed to perform surveys of the exposure device to determine that the sealed source had been returned to its shielded position after radiographic exposures;
- (4) On October 25, 1990, Mr. Murray failed to secure the radiographic source in the fully shielded position after each of several source exposures;
- (5) On October 23, 1990, Mr. Murray failed to prevent entry into the restricted area of individuals other than radiographers and radiographers' assistants.

On October 25, 1990, Mr. Murray was asked by NRC personnel whether, during the NRC-observed operations of October 23 and 25, he had complied with the above-referenced NRC requirements

for the conduct of surveys to assure that the source had been retracted to its fully shielded position, for the securing of the source in this shielded position after each exposure, and for preventing the entry of unauthorized personnel into the restricted area. He stated that he had complied and also demonstrated to the NRC personnel the survey procedures he stated that he had used on those occasions, i.e., conducting a survey with a survey meter as he approached the radiographic exposure device, and circumferentially surveying the device with a survey meter. This demonstration again showed that he had a thorough understanding of Commission requirements.

III

It appears that Mr. Murray's actions were willful because he was experienced, trained, and knowledgeable concerning NRC and Licensee requirements pertaining to surveys, to securing the source in the fully shielded position after each source exposure, and to preventing unauthorized entry into a restricted area, and because he repeatedly failed to comply with these requirements on at least two days in one week. In addition, Mr. Murray gave the NRC false information concerning his actions, contrary to the observations of two NRC employees. Therefore, the NRC has concluded that false information was also provided willfully. As a result of these willful violations, the NRC does not have reasonable assurance that Mr. Murray will comply with regulatory requirements. Moreover, Mr. Murray's willful violations of Commission requirements cannot be tolerated.

Consequently, I lack the requisite reasonable assurance that, with Mr. Murray's involvement, the Licensee's current operations under License No. 53-23288-01 can be conducted in compliance with the Commission's requirements and that the health and safety of the public, including the Licensee's employees, will be protected. Therefore, the public health, safety, and interest require that License No. 53-23288-01 be modified to prohibit the utilization of Mr. Thomas E. Murray in licensed activities. Furthermore, pursuant to 10 CFR 2.204, I find that the public health, safety, and interest require that this Order be immediately effective.

IV

Accordingly, pursuant to Sections 81, 161b, 161c, 161i, 181a, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.204 and 10 CFR part 34, it is

hereby ordered, effective immediately, that License No. 53-23288-01 is modified as follows:

Fewell Geotechnical Engineering Ltd., shall not utilize Mr. Thomas E. Murray in any licensed activities, including but not limited to, activities performed by radiographers, radiographers' assistants, and helpers, for a period of three years.

The Regional Administrator, Region V, may relax or rescind, in writing, any of the above conditions upon a showing of good cause by the Licensee.

The Licensee, Mr. Thomas E. Murray, or any other person adversely affected by this Order may submit an answer to this Order or request a hearing on this Order within twenty days of the date of this Order. The answer shall set forth the matters of fact and law on which the Licensee, Mr. Thomas E. Murray, or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer filed within twenty days of the date of this Order may include a request for a hearing. Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Docketing and Service Section, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, to the Regional Administrator, NRC Region V, 1450 Maria Lane, suite 210, Walnut Creek, California 94596, and to the Licensee if the answer or hearing request is by a person other than the Licensee. If a person other than the Licensee or Mr. Thomas E. Murray requests a hearing, that person shall set forth with particularity the manner in which his or her interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by the licensee, Mr. Thomas E. Murray, or any other person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at the hearing shall be whether this Order should be sustained.

Upon the Licensee's and Mr. Murray's consent to the provisions set forth in Section IV of this Order, or upon failure of the Licensee and Mr. Murray to file an answer within the specified time, and in the absence of any request for hearing, the provisions specified in section IV above shall be final without further Order or proceedings. An answer or a request for hearing shall not stay

the immediate effectiveness of this Order.

Dated at Rockville, Maryland this 2nd day of November 1990.

For the Nuclear Regulatory Commission,
Hugh L. Thompson, Jr.

*Deputy Executive Director for Nuclear
Materials Safety, Safeguards, and Operations
Support.*

[FR Doc. 90-26887 Filed 11-6-90; 8:45 am]

BILLING CODE 7590-01-M

Docket Nos. 50-443-OL-R5 and 50-444-OL-R5, Construction Permit Nos. CPPR-135 and CPPR-136]

Public Service Co. of New Hampshire, et al., Seabrook Station, Units 1 and 2; (Emergency Planning—ALS Patients); Establishment of a Separate Atomic Safety and Licensing Board To Preside In Proceeding

Pursuant to delegation by the Commission dated December 29, 1972, published in the Federal Register, 37 FR 28710 (1972), and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, and pursuant to the Statement of Policy on Conduct of Licensing Proceedings, 13 N.R.C. 432 (1981), and the request of the Atomic Safety and Licensing Board already established to preside in this operating license proceeding, a separate Atomic Safety and Licensing Board is being established to preside over the proceeding on the issue of evacuation time estimates for special facility Advanced Life Support patients.

This Board is being established pursuant to the Atomic Safety and Licensing Appeal Board's November 7, 1989 Decision concerning the New Hampshire Radiological Emergency Response Plan (NHRERP), ALAB-924, 30 NRC 331 (1989). One of the issues that the Appeal Board remanded for further proceedings in ALAB-924 was the Licensing Board's finding in LBP-88-32, 28 NRC 667 (1988) that intervenor SAPL's concerns regarding evacuation time estimates for special facility Advanced Life Support (ALS) patients were adequately reflected in the NHRERP's evacuation time assumptions.

The separate Board is comprised of the following Administrative Judges:
Peter B. Bloch, Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.
Dr. Richard F. Cole, Member, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Dr. Harry Foreman, Member, 1564
Burton Avenue, St. Paul, Minnesota
55108.

All correspondence, documents and other materials shall be filed with the Board in accordance with 10 CFR 2.701 (1980).

This separate Licensing Board of limited jurisdiction (to be referred to for convenience as the "ALS" Board), exists solely to bear and resolve issues related to evacuation time estimates for special Facility Advanced Life Support (ALS) patients.

The Licensing Board comprised of Administrative Judges Smith, Cole and McCollom, sometimes referred to for convenience as the "offsite EP Board", stands in the shoes of the original Licensing Board constituted November 30, 1981 in response to the October 19, 1981 notice of hearing. See 46 FR 51,330 (1981). Thus, that Licensing Board has general jurisdiction over all matters pertaining now or in the future to the application for a license to operate Units 1 and 2 of the Seabrook Station not otherwise expressly assigned to the new separate "ALS" Board.

Dated at Bethesda, Maryland, this 5th day of November 1990.

F. Paul Cotter, Jr.

*Chief Administrative Judge, Atomic Safety
and Licensing Board Panel.*

[FR Doc. 90-26894 Filed 11-6-90; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC-17832; 812-7485]

American Capital Comstock Fund, Inc.
et al.; Application

November 5, 1990.

AGENCY: Securities and Exchange
Commission ("SEC").

ACTION: Notice of Application for
exemption under the Investment
Company Act of 1940 ("1940 Act").

APPLICANTS: American Capital
Comstock Fund, Inc.; American Capital
Corporate Bond Fund, Inc.; American
Capital Emerging Growth Fund, Inc.;
American Capital Enterprise Fund, Inc.;
American Capital Equity Income Fund,
Inc.; American Capital Federal Mortgage
Trust; American Capital Government
Securities, Inc.; American Capital
Government Target Series; American
Capital Growth and Income Fund, Inc.;
American Capital Harbor Fund, Inc.;
American Capital High Yield
Investments, Inc.; American Capital
Pace Fund, Inc.; and any other
investment companies whose shares

may be distributed by American Capital
Marketing, Inc. (together, the "Funds");
American Capital Marketing, Inc.; and
American Capital Asset Management,
Inc. (together, the "Applicants").

RELEVANT 1940 ACT SECTION: Exemption
requested under section 6(c) of the 1940
Act from the provisions of sections
2(a)(32), 2(a)(35), 22(c) and 22(d) of the
1940 Act and Rule 22c-1 thereunder.

SUMMARY OF APPLICATION: Applicants
seek an exemption under section 6(c) to
permit the Applicant to impose and
waive a contingent deferred sales
charge on redemptions of its shares in
certain cases.

FILING DATES: The application was filed
on March 7, 1990 and amended on
September 28 and October 29, 1990.

HEARING OR NOTIFICATION OF HEARING:
An order granting the application will be
issued unless the SEC orders a hearing.
Interested persons may request a
hearing by writing to the SEC's
Secretary and serving Applicant with a
copy of the request, personally or by
mail. Hearing requests should be
received by the SEC by 5:30 p.m. on
November 29, 1990, and should be
accompanied by proof of service on the
Applicant, in the form of an affidavit or,
for lawyers, a certificate of service.
Hearing requests should state the nature
of the writer's interest, the reason for
the request, and the issues contested.
Persons may request notification of a
hearing by writing to the SEC's
Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth
Street NW., Washington, DC 20549; on
behalf of Applicants, c/o American
Capital Asset Management, Inc., 2800
Post Oak Blvd., Houston, Texas 77056.

FOR FURTHER INFORMATION CONTACT:
Marc Duffy, Staff Attorney, (202) 272-
2511, or Max Beruff, Branch Chief,
(202) 272-3016 (Division of Investment
Management, Office of Investment
Company Regulation).

SUPPLEMENTARY INFORMATION: The
following is a summary of the
application. The complete application
may be obtained for a fee at the SEC's
Public Reference Branch or by
contacting the SEC's commercial copier
at (800) 231-3282 (in Maryland (301) 738-
4400).

Applicants' Representations

1. The Funds are open-end investment
management companies registered
under the 1940 Act. Each of the Funds
has or will enter into an underwriting
agreement pursuant to which American
Capital Marketing, Inc. (the
"Distributor") acts as principal