



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

FEB 22 1991

Docket Nos. 030-09761 and 030-12688  
License Nos. 29-06760-07 and 29-06760-08  
EA 90-061

Radiology-Ultrasound-Nuclear  
Consultants, PA  
Radiology-Oncology Clinic  
ATTN: G. Anthony Doener, M.D.  
303 West Main Street  
Freehold, New Jersey 07728

Gentlemen:

SUBJECT: ORDER IMPOSING A CIVIL MONETARY PENALTY - \$1,000

This letter refers to your letter dated "June 21 to July 10, 1990," in response to the Notice of Violation and Proposed Imposition of Civil Penalty (Notice) sent to you by our letter dated June 13, 1990. Our letter and Notice described violations that were identified during an NRC inspection conducted on March 14, 1990. The violations involved the failure to perform certain licensed activities in accordance with regulatory requirements. To emphasize the need for increased and improved attention to your radiation safety program to ensure that activities are performed safely and in accordance with the terms of your licenses, a civil monetary penalty of \$1,000 was proposed.

In your response to the Notice, you have (1) admitted Violation D (but asserted it is irrelevant); (2) denied Violation A; and (3) denied Violation C, in that you contend that you have recorded daily wipe tests. Further, you have not explicitly admitted or denied Violations B, E.1, E.2, F, G, and H. You also requested cancellation of the proposed civil penalty. In addition, you discussed an issue involving a film badge record that our Notice did not raise, as well as the manner in which the Enforcement Conference was called. Because the film badge issue was not raised in our Notice, it is not the subject of the enclosed Order Imposing a Civil Penalty. The NRC staff considered the matter resolved by the Enforcement Conference. After consideration of your response, we have concluded, for the reasons given in the Appendix attached to the enclosed Order Imposing a Civil Monetary Penalty, that the violations did occur as stated in the Notice, with the exception of Violation E.2. The Licensee's response leaves no doubt that the Licensee violated the NRC requirements associated with Violation E.2 as stated in the Notice. Accordingly, the NRC staff has amended Violation E.2, as set forth in the Appendix to the enclosed Order, to clarify it. Because the Licensee's response demonstrates that Violation E.2, as amended, occurred, the NRC staff concludes that Violation E.2, as amended

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for clarification, should replace Violation E.2 as stated in the Notice, and that the amendment of Violation E.2 should have no effect on the civil penalty. In addition, the NRC staff concludes, for reasons set forth in the Appendix to the enclosed Order, that mitigation of the civil penalty is inappropriate. Accordingly, we hereby serve the enclosed Order on Radiology Ultrasound - Nuclear Consultants, PA imposing a civil monetary penalty in the amount of \$1,000.

In your response to the Notice, you questioned the NRC's practices for conducting an enforcement conference, in particular suggesting that you had the right to be represented by an attorney at the conference in the same manner that a person accused of committing a crime has a right to legal counsel. While we have no objection to your bringing counsel to an enforcement conference and many licensees do so, the NRC's enforcement action in this case is a civil action, and not a criminal action. In a civil action, a person may obtain counsel as he or she sees fit, but the outcome of a civil action is valid irrespective of whether a person is represented by counsel. Note that an adjudicatory proceeding involving the violations identified in the Notice has not yet begun. It will begin only if you request a hearing on the enclosed Order. Moreover, the purpose of the enforcement conference was to (1) discuss the violations, their significance and causes, and your corrective actions, (2) determine whether there were any aggravating or mitigating circumstances, and (3) obtain other information to help determine the appropriate enforcement action. (See "General Statement of Policy and Procedure for NRC Enforcement Actions," 10 CFR Part 2, Appendix C (1990)). This enforcement conference was a preliminary step in the enforcement process designed to provide the licensee an opportunity to provide information to the NRC. In view of the above, the NRC staff concludes that the enforcement conference in this case was held in accordance with law and Commission policy.

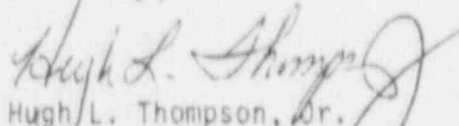
The NRC also notes that your response to the Notice did not provide information adequate to enable the NRC to assess the effectiveness of your corrective actions. Your response did not fulfill NRC's requirements set forth in 10 CFR 2.201(a) and the Notice to describe the corrective steps that have been taken and the results achieved, the corrective steps that will be taken to avoid further violations, and the date when full compliance will be achieved for each violation stated in the Notice. Specifically, you did not give any description of your corrective actions for Violations C, D, E, and F, and for Violations A, G, and H, you only stated the action you had taken to stop their immediate continuation. Additionally, for Violation B, the statement you made under the heading "Corrective Action" does not indicate that you took any action. Moreover, you did not describe any action you have taken to avoid further violations. Nevertheless, the NRC is giving you another opportunity to satisfy these NRC requirements. This information shall be submitted to the Regional Administrator, NRC Region I, 475 Allendale Road, King of Prussia, PA 19406, within 30 days of the date of this letter. Failure to provide such information could be considered a willful violation and may result in further escalated enforcement action, which could include further civil penalties or orders modifying, suspending, or revoking your license. We will review the effectiveness of your corrective actions during a subsequent inspection.

Radiology-Ultrasound-Nuclear  
Consultants, PA

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In accordance with Section 2.790 of the NRC's "Rules of Practice," a copy of this letter and the enclosures will be placed in the NRC's Public Document Room.

Sincerely,



Hugh L. Thompson, Jr.  
Deputy Executive Director for  
Nuclear Materials Safety, Safeguards,  
and Operations Support

Enclosures: As Stated

cc w/encls:  
Public Document Room (PDR)  
Nuclear Safety Information Center (NSIC)  
State of New Jersey