



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

FEB 12 1991

Docket No. 30-30691
License No. 35-26953-01
EA 90-102

Barnett Industrial X-Ray
ATTN: Mr. Loyd Barnett
Post Office Box 1991
Stillwater, Oklahoma 74076

Gentlemen:

SUBJECT: REQUEST FOR HEARING ON CIVIL MONETARY PENALTY

This is in reference to the telephone conversation of February 5, 1991 between Jim Lieberman and yourself regarding your request for a hearing on the civil penalty imposed by NRC Order dated December 31, 1990. During that conversation, you raised concerns about your ability to pay the civil penalty. The violations you have admitted warrant a strong sanction to emphasize their significance and that your corrective actions must be lasting. However, NRC's Enforcement Policy, 10 CFR Part 2, Appendix C, provides "...it is not the NRC's intention that the economic impact of a civil penalty be such that it puts a licensee out of business (orders, rather than civil penalties, are used when the intent is to terminate licensed activities) or adversely affects a licensee's ability to safely conduct licensed activities."

In order to further consider your concern regarding ability to pay, and with a view toward reaching a settlement in this matter without the need for a hearing, we request that you provide the NRC staff with written evidence to demonstrate that payment of this civil penalty will substantially affect your ability to remain in business or substantially affect your ability to safely conduct licensed activities. To support your position, you should provide documentation for the past two years, such as profit and loss statements showing income and expenses including gross sales, salaries, etc.; balance statements showing assets and liabilities; auditor's reports; and tax returns or other evidence such as a signed statement that your application for a commercial loan to pay the civil penalty has been rejected. You are reminded that the Order Imposing Civil Monetary penalty offered the option of payment over time. If you are financially unable to meet the payment schedule specified in the Order, we can negotiate a different schedule. During the telephone conversation you expressed concern that a business downturn could cause you to miss a monthly payment and be found in default. To address your concern, payments in quarterly or semiannual installments could be arranged in order to bridge the monthly variations in your business activities.

We ask that you respond to this request promptly. The response should be addressed to: Director, Office of Enforcement, U.S. Nuclear Regulatory

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Barnett Industrial X-Ray

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Commission, ATTN: Document Control Desk, Washington, D.C. 20555 with a copy to the Regional Administrator, U.S. Nuclear Regulatory Commission, Region II.

Sincerely,

A handwritten signature in cursive script that reads "Edward I. Baker". The signature is written in dark ink and is positioned above the typed name.

Edward I. Baker, Deputy Director
Office of Enforcement

Barnett Industrial X-Ray

Distribution

PDR

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