



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

JUN 21 1994

Docket No. 030-29025
License No. 37-20935-01 (expired)
EA 94-93

Brian A. Clark
1608 Adams Avenue
Dunmore, Pennsylvania 18509

Dear Mr. Clark:

SUBJECT: ORDER TO TRANSFER BYPRODUCT MATERIAL TO AN AUTHORIZED RECIPIENT
(EFFECTIVE IMMEDIATELY) AND DEMAND FOR INFORMATION

The enclosed Order, which is effective immediately, is being issued to require you to transfer byproduct material (a Troxler Gauge Model 3216 containing a 40 millicurie americium-241 source) in your possession to an authorized recipient within 45 days of the date of this Order. If you do not believe that you have sufficient funds to pay for the transfer, you must provide information necessary to support such claim, as described in Section III of the enclosed Order. Once the transfer of material has been confirmed, the NRC will terminate License Number 37-20935-01 and will inform you in writing of the formal termination.

The Order also provides that: (1) if the source has not been leak tested within the last six months, prior to transfer of the source, you will have the source tested for leakage by a person authorized to perform the test; (2) prior to transfer, you must continue to maintain safe control over the byproduct material by keeping it in locked storage; (3) no use of the byproduct material is authorized; (4) unless the source already has been transferred, you will provide a written update to the NRC of your progress in finding an authorized person to receive and possess the byproduct material; (5) you will notify the NRC by telephone at least two working days prior to the actual transfer; and (6) you will certify to the NRC, under oath or affirmation, that the byproduct material has been transferred to an authorized recipient within seven days after such transfer. Unless the Order is relaxed in writing, you must comply with it.

This Order is being issued to you because you are in possession of byproduct material under a license that had expired. You previously had obtained the gauge under NRC License No. 37-20935-01 while you were the President and Owner of August Corporation. However, the license issued to August Corporation expired on November 30, 1990, and we understand that August Corporation is now defunct. Nonetheless, you still have possession of the gauge, even though you have not sought a license to possess it and you have been reminded repeatedly by the NRC to obtain a license or transfer the gauge to an authorized recipient, as evidenced in Section II of the Order. The dissolution of the

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August Corporation does not obviate the requirement that you take immediate action to transfer the byproduct material in your possession to an authorized recipient.

In addition, in light of your continued possession of the gauge without an NRC license, and without seeking a license to do so, you are in deliberate noncompliance of NRC requirements. Therefore, to determine whether additional enforcement action is warranted to further limit your involvement in NRC licensed activities, a Demand for Information (DFI) is being issued with the Order.

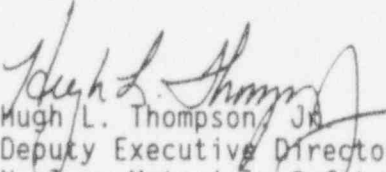
The issuance of this Order does not preclude you from being subject to civil and criminal sanctions for the violation underlying this Order. In addition, violation of this Order may also subject you to civil penalties or criminal sanctions under the Atomic Energy Act.

You are required to abide by the applicable provisions of 10 CFR Part 20 while you maintain NRC-licensed material in locked storage. Your possession of the byproduct material without a valid license continues to be a violation of the Atomic Energy Act of 1954, as amended, and NRC regulations.

If you have any questions concerning this Order and DFI, please contact James Lieberman, Director, Office of Enforcement, at (301) 504-2741.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter and the enclosure 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

Enclosure:
Order to Transfer Byproduct Material
to an Authorized Recipient (Effective Immediately)
and Demand for Information

cc w/encl:
Commonwealth of Pennsylvania