

FEB 14 1991

J. Paige Clousson and Associates
ATTN: Mr. J. Paige Clousson
Suite 707
39 South LaSalle Street
Chicago, IL 60603

Gentlemen:

This is in response to your letter dated February 5, 1991. In your letter, you: (1) expressed concern regarding the timeliness of our notification to you of the February 7, 1991, inspection at St. Mary Medical Centers; (2) indicated your understanding that, as of February 4, some independent auditors had not been notified of the inspection; and (3) questioned the appropriateness of the involvement of an NRC attorney on the inspection team. You closed your letter by indicating that patients were suffering as a result of our conduct of this inspection.

Regarding your first issue, we worked through the licensee to schedule the inspection that was conducted on February 7, 1991. The licensee assured us both verbally and in writing on January 30, 1991, that they had been coordinating with Dr. Sarma and were assured of his availability for our inspection visit. Whether Dr. Sarma informed you of his involvement with the licensee in preparation for the inspection is a matter beyond our control.

Regarding your second issue, you are correct that, as of February 4, the auditors from University of Wisconsin had not been contacted regarding the conduct of the inspection. On February 6, 1991, we contacted Dr. Hornback at Indiana University Medical Center and Dr. Steeves at the University of Wisconsin to discuss the nature and scope of the upcoming inspection and any involvement that may be required of them. As you are aware, it was not necessary to contact either Dr. Hornback or Dr. Steeves during the course of the inspection on February 7, 1991.

Regarding your third issue, on February 6, 1991, we discussed with you the nature of the NRC attorney's involvement on the inspection team. We explained that the involvement of the NRC attorney was for the purpose of regulatory interpretation and did not relate to any contemplated litigation regarding these matters. As you are aware, the administrative hearing you reference in your letter was terminated by order of the Atomic Safety and Licensing Board on December 26, 1990.

Finally, as stated in our letter to you dated February 12, 1991, and as discussed with the licensee during our inspection on February 7, 1991, any decision regarding resumption of brachytherapy activities at St. Mary Medical Centers, Hobart and Gary, rests with the licensee. St. Mary Medical Centers

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has been free to request reinstatement of brachytherapy activities since submittal of the independent auditors report on December 14, 1990. Moreover, we have been prepared to lift the suspension of this licensed program on a case-by-case basis for medically urgent patient treatment upon the request of the licensee. Therefore, we cannot disagree more strongly with your assertion that our handling of this matter is harming patients.

If you have any further questions regarding these matters, please contact John A. Grobe of my staff.

Sincerely,

A Bert Davis

A. Bert Davis
Regional Administrator

cc w/ltr dtd 02/05/91:
St. Mary Medical Centers
S. H. Pratt, Hall, Render,
Killian, Heath & Lyman
DCD/DCB (RIDS)
Materials License File
No. 13-03459-02;03

bcc w/ltr dtd 02/05/91:
J. Lieberman, OE
J. Goldberg, OGC
R. Bernero, NMSS
J. Mullauer, RIII

- - - See Previous Concurrences - - -

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Davis
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If you have any further questions regarding these matters, please contact John A. Grobe of my staff.

Sincerely,

A. Bert Davis
Regional Administrator

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RIII
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