



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

Docket No. 040-08724  
License No. SUB-1357

Mr. David R. Sargent  
Vice President  
Chemetron Corporation  
2100 New River Center  
200 East Las Olas Boulevard  
Fort Lauderdale, FL 33301

Dear Mr. Sargent:

We reviewed your letter of July 14, 1994, responding to agency views expressed in Mr. Bernero's letter of June 24, 1994, on language in the Settlement Agreement, in Kalnasy, et al. v. McGean-Rohco, et al., that may affect the public's ability to bring safety concerns to the attention of the Nuclear Regulatory Commission.

From your letter, we understand your position to be that all pertinent safety concerns that might be raised by parties to the settlement, have already been exhaustively considered, and the plaintiffs now consider that remediation in accordance with the Site Remediation Plans will pose no threat to public health and safety. We do not agree with this premise, since there are still some health and safety issues that require resolution and we will be addressing these issues as part of our review of the remediation plan. We are also concerned that unexpected public health and safety issues may arise during the remediation of the site, including unsafe remediation practices or releases of radioactive materials, that might contaminate offsite areas in excess of our limits. It would be appropriate for parties to the settlement to bring such issues to our attention. In view of these unlikely, but none the less possible scenarios, we consider that there should be no restrictions on the ability of the parties to the settlement, as the persons most likely affected, to notify us of these adverse safety situations.

In your letter, you state that the plaintiff's agreement not to seek a hearing on the plans is merely a "covenant not to sue." We view a covenant not to sue as an agreement not to pursue a judicial course of action. Does Chemetron also interpret a covenant not to sue to also include administrative hearings, as would be the case in proceedings held under our regulations?

Your letter also states that Judge Manos would not have approved any agreement which either violated public policy or which "chilled the rights of members of the public to bring safety information" to the attention of anyone. Does this mean that, in Chemetron's view, the settlement agreement is not to be viewed

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Mr. David R. Sargent

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as having a chilling effect regarding giving safety information to NRC, and would not be enforced to that effect?

We would appreciate a response to above comments by September 2, 1994. If you have any questions, please contact me at (301) 415-6708.

Sincerely,

John T. Greeves, Deputy Director  
Division of Waste Management  
Office of Nuclear Material Safety  
and Safeguards

cc: Steve Bell, Ulmer & Berne

*- 190-7145*

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John T. Greeves, Deputy Director  
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cc: Steve Bell, Ulmer & Berne

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