

THE UPJOHN COMPANY

301 Henrietta Street
Kalamazoo, MI 49007
License No. 21-00182-03

Upjohn Laboratories
Clark W. Smith, Ph.D.,
Director, Biotechnology
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Telephone No. (616) 385-6424
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December 9, 1994

Nuclear Regulatory Commission, Region III
Mr. John R. Madera, Materials Licensing Section
801 Warrenville Road
Lisle, IL 60532

re: Telecom of November 18, 1994 from Ms. SMUnger to Mr. JRMadera concerning the sale of Asgrow Seed Company, a subsidiary of The Upjohn Company.

Dear Mr. Madera,

This letter is a follow up to the referenced phone conversation relating to a change in one of the facilities listed on our Nuclear Regulatory Commission (NRC) Byproduct Material License No. 21-00182-03. The specific facility in question is "Building 50" and has historically been included in our license as part of the Upjohn Farms Complex at 7234 Gull Road. The specific address for Building 50 is 5600 East "G" Avenue, Kalamazoo, Michigan.

Upjohn has agreed to sell a subsidiary, Asgrow Seed Company, to Empresas La Moderna (ELM), an affiliate of the Pulsar Internacional group of companies based in Monterrey, Mexico. Currently, Asgrow employees conduct research with radioactive materials in Building 50 under the Upjohn byproduct material license. These employees will become ELM employees on January 1, 1995. Building 50 will remain property of Upjohn and will be leased to ELM through December 31, 1995. ELM plans to have their own byproduct materials license by January 1, 1996. For the time period of January 1 to December 31, 1995, it is Upjohn's intention to allow Asgrow employees to use byproduct material under our license with the same conditions required by Upjohn's radiation safety program.

Upjohn will remain the "legally responsible licensee" for NRC-related activities in Building 50. The Radiation Safety Officer (RSO) and the Radiation Safety Committee (RSC) members listed on the Upjohn license will not change as a result of the agreement with ELM. The RSO will continue to have the responsibility for overall radiation protection and will have the authority to terminate immediately a project that is found to be a threat to the health and safety of the public or Asgrow employees. All byproduct material possessed and used at Asgrow, and all waste generated from such use, will be controlled under Upjohn's byproduct material license. Radioactive materials shall be used only by, or under the supervision of, individuals designated as Authorized Radioisotope Investigators (ARIs) by the Radiation Safety Committee.

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REGION III

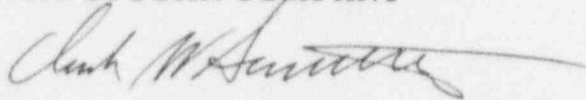
John R. Madera, NRC
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As you requested, Upjohn and Asgrow have established a formal agreement describing the general conditions for the procurement, use, and disposal of radioactive material at Building 50. A copy of this agreement is attached. It is our understanding that a formal license amendment is not required but your review and approval of the agreement is necessary. We would appreciate timely review and approval of this agreement since the sale of Asgrow is to become effective on January 1, 1995. Should you have questions or need additional information, please contact LJKenaga (616) 384-9383.

Sincerely,

THE UPJOHN COMPANY



Clark W. Smith, Chairman
Radiation Safety Committee

enclosure
cc JCSorenson, Asgrow

AGREEMENT

This Agreement is established between Asgrow Seed Company, Kalamazoo, Michigan 49001 (hereinafter "Asgrow") and The Upjohn Company, Kalamazoo, Michigan 49001, (hereinafter "Upjohn"), to define the general conditions to govern the purchase, possession, storage, use and disposal, including waste generated from such use, (hereinafter collectively "Uses") by Asgrow of radioactive materials (hereinafter "Radioactive Materials") under Upjohn's Nuclear Regulatory Commission (NRC) Byproduct Material License No. 21-00182-03 (hereinafter "BM License") in Asgrow's plant-related research studies at Upjohn's Building 50, 5600 East "G" Avenue, Kalamazoo, Michigan (hereinafter "Building 50").

Unless prior written authorization is provided by Upjohn, Asgrow agrees that all Radioactive Materials shall be used at Building 50 under the strict control of Upjohn's BM License and in compliance with all applicable policies, procedures, guidelines and monitoring activities of Upjohn's Radiation Safety Committee and/or its authorized representatives. To assure that Asgrow is using Radioactive Materials in compliance with Upjohn's BM License, Upjohn will monitor Asgrow's laboratories using the same procedures and criteria Upjohn uses to monitor compliance in its own laboratories. Should Asgrow's laboratories fail to be in compliance with Upjohn's BM License or with the aforementioned policies, procedures, guidelines or monitoring activities of Upjohn's Radiation Safety Committee and/or its authorized representatives, Upjohn shall be entitled to remove any and all Radioactive Materials from any and all Asgrow laboratories which are non-compliant, and to bar any Radioactive Materials from entering such non-compliant laboratories during the period of non-compliance.

Asgrow agrees to compensate/reimburse Upjohn for reasonable expenses associated with and incurred by Upjohn to maintain the radiation program in Building 50 in support of Asgrow's Uses of Radioactive Materials, including, but not limited to, their delivery and disposal, site surveys/audits, personnel training, wipe tests, and hood recertification. Upjohn shall submit an invoice to Asgrow covering such expenses no more frequently than monthly and Asgrow agrees to reimburse Upjohn for its costs within 30 days of receipt of each invoice. It is estimated that total costs, excluding the cost of purchasing Radioactive Materials, will not exceed \$15,000 per year.


Asgrow agrees to indemnify Upjohn from, and hold Upjohn harmless with respect to, any and all claims, demands, litigation, judgments and associated expenses (including reasonable attorneys' fees) for personal injury (including death) or property or environmental damage arising out of or relating to its Uses of any Radioactive Material during the term of this Agreement, unless such loss, claim, suit, liability or expense (including attorneys' fees) is caused by or arises out of the sole negligence of Upjohn. This indemnification survives termination of this Agreement.

This Agreement shall become effective and binding on both parties as of the later date on which ownership of Asgrow is transferred from Upjohn to Empresas La Moderna, an affiliate of Pulsar Internacional, Monterrey, Mexico, OR on which Upjohn receives authorization from NRC to permit Asgrow's Uses of Radioactive Materials at Building 50 under Upjohn's BM License. Upjohn agrees to use its best efforts to obtain such

authorization from NRC prior to such transfer of ownership of Asgrow. This Agreement will terminate on the earlier of: 1) December 31, 1995; or 2) Asgrow, using its best efforts, obtains a Byproduct Material License (or comparable license) from the NRC; or 3) Asgrow vacates Building 50; or 4) NRC terminates Upjohn's BM License or authorization permitting Asgrow's Uses of Radioactive Materials under the BM License. Termination of this Agreement shall not relieve either party of obligations arising prior to its termination. Following termination of this Agreement, Asgrow shall have no right to use Radioactive Materials at Building 50, except when and in the event of termination ensuing from Asgrow having obtained its own NRC license.

ACCEPTED AND AGREED TO:


THE UPJOHN COMPANY


Robert R. Gorman, Ph.D.
Corporate Vice President for
Discovery Research

Date:

12-9-94

ASGROW SEED COMPANY


John C. Sorenson, Ph.D.
General Manager
Asgrow WW Vegetable Business

Date

12-9-94

