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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

ST. JOSEPH RADIOLOGY ASSOCIATES, INC. )	Docket No. 030-00320
and )	License No. 24-05592-01
JOSEPH L. FISHER, M.D. d.b.a )	
ST. JOSEPH RADIOLOGY ASSOCIATES, INC. )	Docket No. 999-90003
and )	Non - Licensee
FISHER RADIOLOGICAL CLINIC )	
(Byproduct Material License )	EA 92-172
No. 24-05592-01) )	

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NRC STAFF'S RESPONSE TO JOSEPH L. FISHER'S, M.D.  
REQUEST TO SET ASIDE THE IMMEDIATE EFFECTIVENESS  
OF THE ORDER TO TRANSFER BYPRODUCT MATERIAL  
TO AUTHORIZED RECIPIENT

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Janice E. Moore  
Deputy Assistant General Counsel  
for Adv. Reactors and Spec. Proceedings

Marian L. Zobler  
Counsel for NRC Staff

November 2, 1992

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NRC STAFF'S RESPONSE TO JOSEPH L. FISHER'S, M.D.  
REQUEST TO SET ASIDE THE IMMEDIATE EFFECTIVENESS  
OF THE ORDER TO TRANSFER BYPRODUCT MATERIAL  
TO AUTHORIZED RECIPIENT

INTRODUCTION

On October 16, 1992, the NRC Staff (Staff) issued an Order To Transfer Byproduct Material to Authorized Recipient (Effective Immediately) (Order) to Joseph L. Fisher, M.D.<sup>1</sup> 57 Fed. Reg. 48404 (October 23, 1992). The Order required Dr. Fisher to transfer all NRC-regulated material in his possession to an authorized recipient within 45 days of the date of the Order. Order at 8. The Order provided that

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<sup>1</sup>As set forth in the Order, the original license was issued to Dr. Fisher, as an individual, in 1959. Order at 1. In 1969, the license was renewed under the name of Fisher Radiological Group. *Id.* The license was renewed again in 1980 under the name of St. Joseph Radiology Associates, Inc., the current Licensee. However, St. Joseph Radiology Associates, Inc. is no longer a legal entity. *Id.*

Dr. Fisher may submit documents within 30 days of the date of the Order that demonstrate that he does not have sufficient funds to complete the transfer. *Id.* The Order further required that Dr. Fisher notify the NRC Region III of the transfer at least two working days prior to the transfer. *Id.* at 8-9. Seven days following the transfer, Dr. Fisher must also provide the NRC Region III with confirmation that the material has been transferred, a copy of the leak test performed prior to the transfer, and a copy of the certification from the authorized recipient that the material has been received. *Id.* at 9. Dr. Fisher replied to the Order on October 22, 1992. Letter to Hugh L. Thompson, Jr. from Joseph L. Fisher, M.D., F.A.C.R., dated October 22, 1992 (Letter). In the Letter, Dr. Fisher stated that he had sold the unit containing the NRC-licensed material and that he would provide written confirmation. *Id.* Dr. Fisher also stated that he did not have the financial resources to "comply with some of your regulations." *Id.* The letter concluded with a request that the Presiding Officer set aside the immediate effectiveness of the Order so that Dr. Fisher would have more time to "comply with all of your regulations." *Id.* For the reasons set forth below, Dr. Fisher's request should be denied.

### DISCUSSION

#### A. Legal Standards for Issuing and Challenging An Immediately Effective Order

Section 2.202 of the Commission's regulations provides that the Commission may, upon a finding that the public health, safety, or interest so requires, make an order

immediately effective. 10 C.F.R. § 2.202(a)(5). Furthermore, Commission case law allows the issuance of immediately effective orders in order to prevent a future risk to the public health and safety. *Nuclear Fuel Services, Inc. and New York State Energy Research and Development Authority* (Western New York Nuclear Service Center), CLI-81-29, 14 NRC 940 (1981) (West Valley); *Nuclear Engineering Company, Inc.* (Sheffield, Illinois Low-Level Radioactive Waste Disposal Site), CLI-79-6, 9 NRC 673 (1979).

Challenges to the immediate effectiveness of an order may be made pursuant to Section 2.202(c)(2)(i) of the Commission's regulations. Section 2.202(c)(2)(i) provides that a person to whom the Commission has issued an immediately effective order may move the presiding officer designated in the proceeding to set aside the immediate effectiveness of the order on the ground that the order, including the need for immediate effectiveness, is not based on adequate evidence, but rather on mere suspicion, unfounded allegations, or error. *Id.* Adequate evidence, as defined by the Commission, is found when "facts and circumstances within the NRC staff's knowledge, or concerning which it has reasonably trustworthy information, are sufficient to warrant a person of reasonable caution to believe that the charges specified in the order are true and that the order is necessary to protect the public health, safety, or interest." *"Revisions to Procedures To Issue Orders: Challenges to Orders That Are Made Immediately Effective,"* 57 Fed. Reg. 20194, 20196 (May 12, 1992). The motion to set aside the immediate effectiveness of an order must state with particularity the reason why the order is not based on adequate evidence and must be accompanied by affidavits or other evidence relied on.

10 C.F.R. § 2.202(c)(2)(i). The Staff's response must present adequate evidence supporting both the order and the decision to make the order immediately effective. *Id.*

B. Dr. Fisher's Request Does Not Meet the Requirements of Section 2.202(c)(2)(i) of the Commission's Regulations

Dr. Fisher's request that the immediate effectiveness of the Order be set aside should be denied because he has failed to comply with the Commission's regulation regarding challenges to the immediate effectiveness of orders. *See*, 10 C.F.R. § 2.202(c)(2)(i). Dr. Fisher's request is not in the form of a motion, as is required by the regulation. *See, id.* Dr. Fisher also failed to accompany his request with affidavits or other evidence relied on to support his request. Furthermore, Dr. Fisher does not claim or show that the Order was based on mere suspicion, unfounded allegations or error. He simply requests that the immediate effectiveness of the Order be set aside so that he could have more time to comply with the order.<sup>2</sup> Dr. Fisher's request should, accordingly, be denied.

C. The Staff's Order and the Reasons for Its Immediate Effectiveness Are Based On Adequate Evidence

Both The Staff's Order and the reasons for its immediate effectiveness are based on adequate evidence and are not based on mere suspicion, unfounded allegations, or error. Dr. Fisher is currently in possession of 600 curies of Cobalt-60 contained in a

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<sup>2</sup>Dr. Fisher specifically requests more time in which to comply with the Commission's regulations. Letter at 1. The Staff is assuming that Dr. Fisher meant that he was requesting more time to comply with the provisions of the Order.

Picker Corporation Teletherapy unit (unit). Affidavit of Patricia A. Santiago (Attached hereto as Attachment 1) Affidavit at ¶ 4. Cobalt-60 could pose a serious risk to the public health and safety if it were released into the environment. Affidavit at ¶¶ 4, 11. The Staff has adequate evidence to believe that if the unit containing the byproduct material is not expeditiously transferred to an authorized recipient, there is a risk that the byproduct material will be released.

The facts which form the basis of the Staff's belief that the Order should be immediately effective are set forth in the Order. Specifically, Dr. Fisher is not licensed by the Commission either to possess or use the byproduct material in the unit. Accordingly, there are no license conditions applicable to Dr. Fisher of the type ordinarily used to assure that proper safety requirements are followed. Affidavit at ¶ 7. Furthermore, Dr. Fisher has demonstrated that, in the past, he had not maintained the proper security of the unit. For example, the key to the locked room where the unit was kept had been lost. Affidavit at ¶ 5. Dr. Fisher, on advice from the Staff, changed the lock on the door and is now in possession of the new key. *Id.* Also, the key to the console on the unit which would expose the source has been lost. *Id.* If this key were to be found by an untrained individual, and that individual gained entrance to the room where the unit is kept, an accidental dose from the byproduct material could occur. Affidavit at ¶ 11.

Furthermore, the Staff has adequate evidence to believe that in the future, Dr. Fisher would be either unwilling or unable to maintain proper control over the unit. Dr. Fisher is already in violation of the Commission's regulations by possessing

byproduct material without a license. A Notice of Violation (NOV) was issued to Dr. Fisher on May 18, 1992. Dr. Fisher was the original licensee and is the Radiation Safety Officer for the successor Licensee. Affidavit at ¶ 6. The Licensee is in violation of section 30.36 of the Commission's regulations by failing to notify the Staff that it has terminated licensed activities. Affidavit at ¶ 8.

Dr. Fisher's responses to Staff letters and to the NOV regarding the possession and control of the byproduct material indicate that Dr. Fisher is unwilling to comply with NRC requirements. For example, Dr. Fisher made arguments which are without merit regarding whether he is in possession of the byproduct material. Affidavit at ¶¶ 6, 9. Although the Licensee is no longer a legal entity, the byproduct material is in fact stored at Dr. Fisher's medical facility on premises under his control. Affidavit at ¶¶ 6, 8.


There is also an immediate risk that Dr. Fisher will be unable to maintain proper control over the unit. Dr. Fisher claimed that he was unable to pay for the removal of the byproduct material due to his poor financial condition. Affidavit at ¶ 10. If Dr. Fisher becomes insolvent or closes his office, there is the possibility that the byproduct material would not be under proper control. *Id.* If Dr. Fisher ceases to maintain physical control of the byproduct material, an individual who is unaware of the hazardous nature of the material may dispose of this material improperly, risking exposure to the public. See Affidavit at ¶ 11. An individual may also find and dismantle the unit, thereby exposing him or herself and any person nearby to the byproduct material. Affidavit at ¶ 11. Based on the above, the Staff had adequate evidence to

determine that an immediate risk to the public health, safety, and interest exists. See Affidavit of James Lieberman (Attached hereto as Attachment 2). Accordingly, the immediate effectiveness of the Order should be upheld.

CONCLUSION

For the reasons stated above, Dr. Fisher's request to set aside the immediate effectiveness of the Order should be denied.

Respectfully submitted,



Janice E. Moore  
Deputy Assistant General Counsel for  
Advanced Reactors and Special  
Proceedings

Dated at Rockville, MD  
this 2nd Day of November, 1992

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

In the Matter of	)	
	)	
ST. JOSEPH RADIOLOGY	)	Docket No. 030-00320
ASSOCIATES, INC. and	)	License No. 24-05592-01
JOSEPH L. FISHER, M.D. d.b.a	)	
ST. JOSEPH RADIOLOGY ASSOCIATES,	)	Docket No. 999-90003
INC. and FISHER RADIOLOGICAL CLINIC	)	Non - Licensee
	)	
(Byproduct Material License	)	EA 92-172
No. 24-05592-01)	)	

AFFIDAVIT OF PATRICIA A. SANTIAGO

Patricia A. Santiago, first being duly sworn, deposes and states:

1. My name is Patricia A. Santiago. I am employed by the U.S. Nuclear Regulatory Commission (NRC) as a health physicist in the Division of Industrial and Medical Nuclear Safety, Office of Nuclear Material Safety and Safeguards (NMSS). I am currently on a rotational assignment performing the duties of an enforcement specialist in the Office of Enforcement (OE). A statement of my professional qualifications is attached hereto as Exhibit A.

2. In performing my duties as Enforcement Specialist, I am assigned the responsibility of preparing and coordinating enforcement actions and I was assigned to assist the Director, OE, in developing the Order To Transfer Byproduct Material to Authorized Recipient (Effective Immediately) (Order) issued to St. Joseph Radiology Associates, Inc. and Joseph L. Fisher, M.D., d.b.a St. Joseph Radiology Associates,

Inc. and Fisher Radiological Clinic on October 16, 1992. Order To Transfer Byproduct Material to Authorized Recipient (Effective Immediately), dated October 16, 1992 (Attached hereto as Exhibit B).

3. The purpose of my affidavit is to describe the circumstances surrounding the issuance of the Order, the potential safety concern of these circumstances, and why the public health, safety, and interest require that Dr. Fisher dispose of the byproduct material properly and immediately.

4. The byproduct material in Dr. Fisher's possession is approximately 600 curies of cobalt-60 contained in a Picker Corporation teletherapy unit. Cobalt-60 is a high energy gamma emitter and a source of this magnitude is capable of presenting a lethal dose to an individual if the unit is improperly used.

5. The console key necessary to operate the unit console is, according to Dr. Fisher, lost. If the console key is lost, there is a risk that the unit could be improperly used if an untrained person finds the console key and improperly uses the unit. Also, the key to the door of the room where the unit is stored was lost. Dr. Fisher, after persuasion by the regional staff, did have the lock changed and now has a key to the door of the room storing the byproduct material. Dr. Fisher indicated to the NRC regional staff during the August, 1992 inspection and in a telephone conversation that he neither used nor intended to use the byproduct material.

6. Dr. Fisher, in a letter dated May 27, 1992, informed the NRC that the material belongs to St. Joseph Radiology Associates, Inc. which is now defunct and is no longer a legal entity. Further, Dr. Fisher stated that he does not possess the material.

Letter from Joseph L. Fisher, M.D., F.A.C.R., to John A. Grobe, dated May 27, 1992 (Attached hereto as Exhibit C). Dr. Fisher seeks to convince the NRC that he has no responsibility for the byproduct material. However, the byproduct material is located in the suite of offices rented by Dr. Fisher. Dr. Fisher was the radiation safety officer for St. Joseph Radiology Associates, Inc. Materials License Amendment No. 14, Ticket No. 030-00320 (Attached hereto as Exhibit D). Moreover, the license was first issued to Dr. Fisher. Dr. Fisher had the license transferred to St. Joseph Radiology Associates, Inc. Dr. Fisher submitted amendment requests, signed NRC Form 313 applications, NRC Form 314, and sent checks signed by him for the St. Joseph Radiology Associates, Inc., license. Dr. Fisher's office is at the same location and has the same telephone number as St. Joseph Radiology Associates, Inc. Dr. Fisher is and has been the person responsible for the byproduct material license issued to St. Joseph Radiology Associates, Inc.

7. The byproduct material possessed by Dr. Fisher is not licensed; therefore, no legally binding requirements are in place to assure proper safety requirements will be followed. A license is required for possession of byproduct material in accordance with 10 CFR 30.3.

8. St. Joseph Radiology Associates, Inc. did not pay the 1991 annual licensing fees required by 10 CFR Part 171. St. Joseph Radiology Associates, Inc. did not properly transfer or dispose of the byproduct material authorized on NRC License No. 24-05522-01 when it ceased to be a legal entity. St. Joseph Radiology Associates, Inc.

did not notify the NRC, in accordance with 10 CFR 30.34(b), 10 CFR 30.34(h) and/or 10 CFR 30.36(b), when it ceased to exist, essentially abandoning the byproduct material.

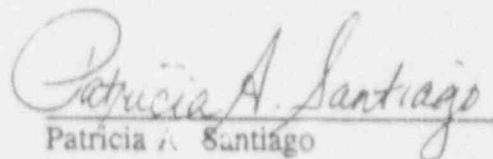
9. The NRC regional Staff repeatedly discussed control and security of the byproduct material with Dr. Fisher to assure that he would maintain control of the byproduct material. Letter from Charles E. Norelius to Joseph L. Fisher, M.D., dated July 10, 1992 (Attached hereto as Exhibit E). However, he continually advised the Staff that the material did not belong to him nor did he possess the byproduct material. During the August, 1992 inspection, Dr. Fisher indicated that Dr. Stevens at Heartland Hospital wanted the byproduct material; however, subsequently an NRC inspector found to the contrary that Dr. Stevens stated to the inspector that the hospital had no use for the byproduct material and in fact was planning for the removal of its own teletherapy unit and so advised Dr. Fisher. Memorandum from Barbara Hamrick to Gary Shear (Attached hereto as Exhibit F).

10. The NRC Staff became particularly concerned when Dr. Fisher informed the Staff that he had no funds to pay for a license. Letter from Joseph L. Fisher, M.D. to Charles Norelius, dated July 15, 1992 (Attached hereto as Exhibit G). This raises a question concerning whether there are funds available to Dr. Fisher to dispose of the byproduct material. If Dr. Fisher either is insolvent, closes his office, or is unable, for some other reason, to finance the cost of proper disposal, then there is a likelihood that the single present control of the byproduct material, which is solely Dr. Fisher maintaining the key to the room storing the byproduct material, would no longer be available and no control of the material would result.


11. For example, if the byproduct material were transferred to a salvage dealer and melted, it would create a significant contamination and exposure problem to the public. Further, if an untrained individual finds the key for the console and accesses the unit and operates it (or simply tries to take it apart for curiosity purposes), it could present that individual or any individual nearby with a significant dose far in excess of those permitted under 10 CFR Part 20 or a fatal dose. Finally, any tampering with the unit may affect the shielding and create unwanted levels of radiation.

12. Based on the circumstances discussed above, it is in the public interest for Dr. Fisher to properly and orderly remove the byproduct material without waiting any additional length of time. The byproduct material is extremely hazardous, any lack of oversight could pose an immediate safety threat to the public, and the byproduct material must be removed as soon as possible versus waiting for the completion of a hearing, if one is requested; thus, an immediately effective order is required for this situation.

13. The matters stated above are true and correct to the best of my knowledge, information and belief.

  
Patricia A. Santiago

Subscribed and sworn to before  
me this 2nd day of November, 1992

  
Notary Public

My commission expires: 12/1/93

## Statement of Professional Qualifications for Patricia A. Santiago

Current Titles and Business Address:

Enforcement Specialist (Rotational Assignment, July 1992 to present), Office of Enforcement  
Health Physicist, (July 1991 to present), Office of Nuclear  
Materials Safety and Safeguards  
U. S. Nuclear Regulatory Commission  
Mail Stop 7H5  
Washington, D. C. 20555

Experience:

Chief, Health Physics, Safety Office, U. S. Army  
Materiel Command (AMC), Department of Army,  
Alexandria, VA, January 1984 to June 1991.

Health Physicist, Safety Office, U. S. Army  
Communications-Electronics Command, U. S. Army  
Materiel Command, Department of Army, Ft.  
Monmouth, NJ, July 1981 to December 1983.

Consultant (Part time), Porter Consultants, Inc.,  
Argyle, PA., April 1984 to December 1983.

Supervisor, Radioactive Materials, Bureau of Radiation  
Protection, Department of Environmental Protection,  
State of New Jersey, June 1980 to July 1981.

Radiation Physicist, Bureau of Radiation  
Protection, Department of Environmental Protection,  
State of New Jersey, January 1980 to June 1980.

Nuclear Medicine Technologist, St. Peter's Medical  
Center, New Brunswick, NJ, January 1979 to January  
1980.

Nuclear Medicine Technologist, Jersey Shore Medical  
Center, Neptune, NJ, May 1976 to January 1979.

Education:

Rutgers University, New Brunswick, N. J., (1976-  
1983) 40 graduate credits in Radiation Physics,  
Radiation Biology, Radiation Chemistry, Internal  
Dosimetry, Radiation Instrumentation, Nuclear  
Engineering.

John F. Kennedy School of Nuclear Medicine,  
Edison, N.J. Nuclear Medicine Technologist  
Certificate.

Monmouth College, W. Long Branch, N.J., (1971-  
1975) B.S. Biology.

Statement of Professional Qualifications for Patricia A. Santiago  
(continued)

Training:

N.C., Project Managers Acquisition, (40 hr), 1991.  
AMC, Total Quality Management for Managers, (40 hr), 1991; (24 hr), 1989.  
AMC, Flag Officer Nuclear Accident Course, (16 hr), 1990.  
AMC, Personnel Management, (40 hr), 1988.  
Army, Executive Environmental and Hazardous Materials Seminar, (16 hr), 1987.  
OPM, Personnel Management for the Executive, (80 hr), 1986.  
DoE, DOT Regulations for Radioactive Materials, (40 hr), 1985.  
AMC, Depleted Uranium Safety, (40 hr), 1984.  
Brookhaven National Lab, Advanced Health Physics Problems, (80 hr), 1983.  
OSHA, Nonionizing Safety, (80 hr), 1982.  
Oak Ridge Associated University (ORAU), Personnel Dosimetry, (40 hr), 1982.  
ORAU, Internal Dosimetry, (40 hr), 1982.  
FEMA, Emergency Response for Nuclear Stations, (80 hr), 1981.  
NJ State, Emergency Response, (40 hr), 1980.  
DuPont, Quality Control in Radiographic Procedures, (80 hr), 1980.  
Society of Nuclear Medicine, Quality Control in Nuclear Medicine, (12 hr) 1979.



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

EXHIBIT B

OCT 16 1992

Docket No. 030-00320  
License No. 24-0559201  
Non-Licensee  
Docket No. 999-90003  
EA 92-172

St. Joseph Radiology Associates, Inc.  
and  
Joseph L. Fisher, M.D.  
d.b.a St. Joseph Radiology Associates, Inc.  
and Fisher Radiological Clinic  
702 Jules Street  
St. Joseph, Missouri 64501

Dear Dr. Fisher:

SUBJECT: ORDER TO TRANSFER BYPRODUCT MATERIAL TO AN AUTHORIZED  
RECIPIENT (EFFECTIVE IMMEDIATELY)

The enclosed Order, which is immediately effective, is being issued to require you to transfer byproduct material (approximately 600 curies of cobalt-60) in your possession to an authorized recipient within 45 days. The Order also provides that 1) prior to transfer, you continue to maintain safe control over the byproduct material by maintaining it in locked storage, 2) no use of the by product material is authorized, and 3) you notify NRC before the transfer and after the byproduct material is transferred. You must also confirm in writing that you have completed the transfer of material to an authorized recipient. Once the transfer of material has been confirmed, NRC will terminate License No. 24-05592-01 and will inform you in writing.

You are required to abide by the applicable provisions of 10 CFR Part 20 while you maintain NRC-regulated material in locked storage. Your possession of the byproduct material without a license continues to be a violation of the Atomic Energy Act of 1954, as amended, and the Commission's regulations. You are hereby put on notice that use of the radioactive material in your control will constitute a willful violation of the Atomic Energy Act and may subject you to civil and criminal sanctions.

This Order is being issued to you since you are in possession of substantial quantities of cobalt-60 without a license. The dissolution of the corporation, St. Joseph Radiology Associates, Inc., does not obviate the requirement that you take immediate action to transfer the byproduct material in your possession to an authorized recipient. While St. Joseph's Radiology Associates, Inc. and Fisher Radiological Clinic may also be individually and jointly responsible for meeting NRC

St. Joseph Radiology  
Associates, Inc.

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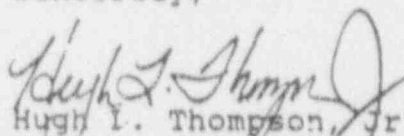
requirements, that does not relieve you of your obligation to transfer the byproduct material at 702 Jules Street to an authorized recipient.

If you do not complete the transfer of the byproduct material in your possession to an authorized recipient within 45 days as directed by the enclosed Order, consideration will be given to issuance of a civil penalty for each day of your continued possession in an amount not to exceed \$100,000 in accordance with the Atomic Energy Act. In addition, the matter might then be referred to Department of Justice for consideration of criminal prosecution or for other action. If you do not believe you have sufficient funds to pay for the transfer, the order describes the information necessary to support such a claim. However, unless the Order is relaxed in writing, you must comply with it.

Please contact William Axelson Deputy Director, Division of Radiation Safety and Safeguards, Region III, to discuss your plans for complying with this Order. He can be reached at (708) 790-5631. Questions concerning this Order may also be addressed to Mr. James Lieberman, Director, Office of Enforcement, who can be reached 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 Dyproduct  
Material to an Authorized Recipient

cc w/enclosure:  
St. Joseph Radiology Associates, Inc.  
702 Jules Street  
St. Joseph, Missouri 64501

Fisher Radiological Clinic  
702 Jules Street  
St. Joseph, Missouri 64501

State of Missouri

UNITED STATES  
NUCLEAR REGULATORY COMMISSION

In the Matter of	)	
ST. JOSEPH RADIOLOGY	)	
ASSOCIATES, INC., AND	)	Docket No.030-00320
JOSEPH L. FISHER, M.D.	)	Lic. No.24-05592-01
d.b.a. ST. JOSEPH RADIOLOGY	)	
ASSOCIATES, INC., AND	)	Docket No. 999-90003
FISHER RADIOLOGICAL CLINIC	)	Non - Licensee
		EA 92-172

ORDER TO TRANSFER BYPRODUCT MATERIAL TO AUTHORIZED RECIPIENT  
(EFFECTIVE IMMEDIATELY)

I

St. Joseph Radiology Associates, Inc. (Licensee) is the holder of Byproduct Material License No. 24-05592-01 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Parts 30 and 35. The license, as amended July 20, 1990, based on a June 27, 1990 letter, under the letterhead of Fisher Radiological Clinic, signed by Dr. Joseph L. Fisher, M.D., authorized the possession and storage of up to 3000 curies of cobalt-60, as a sealed source model designation Picker Corp. P3801A (byproduct material). The license was originally issued on August 11, 1959, to Dr. Fisher. On August 21, 1969 the license was renewed under the name of Fisher Radiological Group. On January 31, 1980, the license was renewed under the name of St. Joseph Radiology Associates, Inc. The license is due to expire on July 31, 1993. However, the NRC was informed by Dr. Fisher, who was listed as the Licensee's Radiation Safety Officer (RSO), that St. Joseph Radiology Associates, Inc. is defunct and no longer exists as a legal entity. Since the

dissolution of the Licensee, the byproduct material has remained in the possession of Dr. Fisher. Dr. Fisher does not have a license for possession of the byproduct material.

## II

Dr. Fisher retains control over the byproduct material (which at present is approximately 600 curies of cobalt-60 as a sealed source contained in a Picker Corporation Model 6202 (V/3000) teletherapy unit) located at 702 Jules Street, St. Joseph, Missouri, the licensed location of use since the issuance of the license.

During the week of June 16, 1991, the NRC contacted Dr. Fisher to determine the status of the byproduct material, and whether or not an inspection was warranted. The NRC learned that Dr. Fisher intended to divest himself of the byproduct material.

On March 6, 1992, the NRC again contacted Dr. Fisher to determine the status of the byproduct material. Dr. Fisher informed the NRC that the Licensee had dissolved, and that the byproduct material was still in storage and appropriately secured at 702 Jules Street, St. Joseph, Missouri. Dr. Fisher also informed the NRC that the Licensee had no funds to dispose of the byproduct material, and that he had not made plans to dispose of it.

On March 17, 1992, the NRC again contacted Dr. Fisher to verify the status of the Licensee, and obtain information about the parties responsible for the disposition of the byproduct material. Dr. Fisher confirmed that the Licensee had dissolved, but refused to give the NRC information as to how to contact the other former corporate owners.

On May 18, 1992, the NRC issued a Notice of Violation (Notice) to Dr. Fisher pursuant to 10 CFR 30.3 for possession of byproduct material without a license. Dr. Fisher responded to the Notice on May 27, 1992, stating that he did not possess the byproduct material, and that it belonged to the Licensee. However, he stated again in the letter that the Licensee was defunct. Dr. Fisher also stated that the byproduct material was in a locked room in the building where he practices medicine and requested information regarding the cost of a byproduct material license.

On July 10, 1992, the NRC wrote to Dr. Fisher requesting further information in response to the Notice. The NRC explained, in this correspondence, the difference between possessing and owning byproduct material. In addition, the NRC provided Dr. Fisher with information regarding the cost of obtaining a byproduct material license for the byproduct material in his possession.

Dr. Fisher responded on July 15, 1992, stating that the byproduct material was not stored on his property, that the property was owned by a building corporation, and that he simply rented space in the building where the byproduct material was located. Dr. Fisher also stated he did not have the funds to obtain a byproduct material license.

On August 5, 1992, the NRC contacted Dr. Fisher by telephone to discuss the control and security of the byproduct material. Dr. Fisher initially denied that he controlled the byproduct material. Dr. Fisher stated that he was unsure if he had a key, and he did not know who else might have the key, to the door of the room where the byproduct material was located. Dr. Fisher stated he would obtain the services of a locksmith to change the lock on that door, and agreed to supervise the locksmith while the byproduct material was accessible. Dr. Fisher also stated he would maintain control over the new key. Dr. Fisher stated that he neither used nor intended to use the byproduct material, but was reluctant to expend the funds to properly dispose of or transfer the byproduct material.

On August 12, 1992, the NRC conducted an onsite inspection of Dr. Fisher's facility at 702 Jules Street. The inspectors verified that the described teletherapy unit containing byproduct material is located in a medical office suite occupied and controlled by Dr. Fisher. The inspectors determined by

observation that Dr. Fisher had the lock to the teletherapy unit room door changed and had the key in his possession. The byproduct material was secured in a locked room and the unit could not be operated without the control console key, which appears to be lost. The last known use of the console was in April 1990. An identification tag on the unit identified the byproduct material as 2761 curies of cobalt-60 on February 1, 1981, AMS Serial No. 2406.

Dr. Fisher stated to the inspectors that he had contacted a vendor regarding removal of the unit and that he could not afford the estimated cost. Dr. Fisher also stated that he had contacted Dr. Stevens at Heartland Hospital in St. Joseph, Missouri, to inquire if the hospital wanted the unit. Dr. Fisher stated that Heartland Hospital may be interested in acquiring his unit as a backup unit, and that a hospital board was to make the final decision in September. After the inspection, the NRC contacted Dr. Stevens who stated that, contrary to Dr. Fisher's representation to the NRC, he told Dr. Fisher that the hospital did not want the unit. Dr. Stevens stated that the hospital was planning for the removal of its own teletherapy unit.

### III

Dr. Fisher remains in possession of NRC-regulated radioactive material without a license. This is prohibited by Section 81 of

the Atomic Energy Act of 1954, as amended, and by 10 CFR 30.3, which state that, except for persons exempt as provided in 10 CFR parts 30 and 31, no person shall possess or use byproduct material except as authorized in a specific or general NRC license. Furthermore, the licensee, through Dr. Fisher also has violated the requirements of 10 CFR 30.36 which requires, in part, notification to the NRC when the licensee decides to terminate all activities involving materials authorized under a license. The licensee, through Dr. Fisher, also has apparently violated 10 CFR 30.9 by providing inaccurate or incomplete information concerning the control and possession of the licensee's material.

Given these circumstances and since Dr. Fisher stated he did not use or intend to use the byproduct material, it would not be appropriate to license his possession of the byproduct material, were he to apply for a license.

Dr. Fisher's possession of material without a license as documented in the May 18, 1992 Notice of Violation, and his unwillingness to transfer the byproduct material in his possession to an authorized recipient, demonstrate a disregard for NRC requirements. Given those failures and the circumstances surrounding his possession of the byproduct material and his communications with the NRC, including his alleged ability to pay for the proper transfer and disposal of the byproduct material,

and the unknown whereabouts of the console key that could expose the source, I lack the requisite reasonable assurance that the health and safety of the public will be protected while Dr. Fisher remains in possession of the radioactive material. Therefore, the NRC has determined that public health and safety require that the byproduct material be properly transferred to an authorized recipient for disposal or licensable use, and that the license should be terminated. Furthermore, pursuant to 10 CFR 2.202, I find that the significance of the violation and conduct of Dr. Fisher described above is such that the public, health, safety, and interest require that this Order be immediately effective.

#### IV

Accordingly, pursuant to sections 81, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Parts 30 and 35, IT IS HEREBY ORDERED, THAT:

- A. Dr. Fisher continue to maintain safe control over the byproduct material in his possession, by keeping the material in locked storage and limiting any access to the material to himself. No use of the byproduct material is authorized;

- B. Dr. Fisher transfer all NRC-regulated material (all cobalt-60 and any depleted uranium in the source head) in his possession to an authorized recipient within 45 days of this Order. If Dr. Fisher believes he does not have sufficient funds to complete the transfer, he must provide, within 30 days of this Order, evidence supporting such a claim by submitting to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, 1) an estimate of the cost of the transfer and the basis for the estimate, including the license number and identity of the person who would perform the transfer, 2) written statements from at least two banks stating that Dr. Fisher could not qualify for a loan to pay for the transfer, 3) copies of Federal income tax returns for the years ending 1991, 1990, and 1989 for Dr. Fisher, St. Joseph Radiology Associates, Inc., and Fisher Radiological Clinic., 4) copies of profit and loss statements from St. Joseph Radiology Associates, Inc. and Fisher Radiological Clinic for those same years; and 5) the names and addresses of all former and current officers, partners, and stockholders of Dr. Fisher, St. Joseph Radiology Associates, Inc., and Fisher Radiological Clinic;
- C. Dr. Fisher notify NRC Region III at least two working days prior to the date of the transfer so that NRC may, if it

elects, observe the transfer of this material to an authorized recipient;

- D. Dr. Fisher, within seven days following the completion of the transfer, shall provide to the Regional Administrator, Region III: 1) confirmation in writing (NRC Form 314) that the radioactive material has been transferred, 2) a copy of the leak rate test performed prior to the transfer, and 3) a copy of the certification from the authorized recipient that the material has been received.

The Regional Administrator, Region III, may, in writing, relax or rescind any of the above conditions, upon demonstration by Dr. Fisher, of good cause.

V

In accordance with 10 CFR 2.202, Dr. Fisher must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within 20 days of the date of this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically admit or deny each allegation or charge made in the Order and set forth the matters of fact and law on which Dr. Fisher or other person adversely affected relies and the reasons why the Order should not have been issued. Any

answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Docketing and Service Section, Washington, D.C. 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, to the Regional Administrator, NRC Region III, 799 Roosevelt Road, Glen Ellyn, Illinois 60137, and to Dr. Fisher if the answer or hearing request is by a person other than Dr. Fisher. If a person other than Dr. Fisher requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).


If a hearing is requested by Dr. Fisher or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), 57 FR 20194 (May 12, 1992) Dr. Fisher, or any other person adversely affected by this Order, may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not

based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. AN ANSWER OR A REQUEST FOR HEARING SHALL NOT STAY THE IMMEDIATE EFFECTIVENESS OF THIS ORDER.

FOR THE NUCLEAR REGULATORY COMMISSION

  
Hugh I. Thompson, Jr.  
Deputy Executive Director for  
Nuclear Materials Safety, Safeguards,  
and Operations Support

Dated at Rockville, Maryland  
this 16<sup>th</sup> day of October 1992

OCT 16 1992

St. Joseph Radiology  
Associates, Inc.

DISTRIBUTION:

SECY

CA

HThompson, DEDS

ABDavis, RIII

JLieberman, OE

JGoldberg, OGC

Enforcement Coordinators

RI, RII, RIII, RIV, RV

FIngram, PA

BHayes, OI

EJordan, AEOD

VMiller, SP

DWilliams, OIG

ASantiago, OE

Day File

EA File

DCS

## FISHER RADIOLOGICAL CLINIC

702 Jules Street

May 27, 1992

Saint Joseph, Missouri 64501

Mr. John A. Grobe, Chief  
Nuclear Material Safety Branch  
799 Roosevelt Road  
Glen Ellyn, Illinois 60137

Dear Mr. Grobe:

I believe there was one misconception in the telephone conversations March 6 and 17, 1992 for I do not possess the cobalt 60 unit which belongs to the St. Joseph Radiology Associates, Inc., now defunct.

The cobalt unit is stored in a locked room in the building where I practice.

In your letter where you state "If you will obtain a license," you do not state the cost for obtaining such a license.

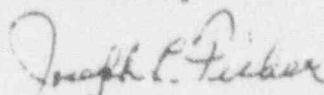
I am not sure how I would go about obtaining possession of this cobalt unit which still belongs to St. Joseph Radiology Associates, INC.

If you will tell me how much the license will be I might instigate an inquiry as to how the cobalt unit could be transferred to me.

Since I am nearly 80 years old and do not practice as actively as in prior years, I wonder if such an investment would be practical.

Your response to these queries will be appreciated.

Sincerely,



Joseph L. Fisher, M. D., F.A.C.R.

JLF:ald

RECEIVED

MAY 29 1992

WAGON III

## MATERIALS LICENSE

Amendment No. 14

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974 (Public Law 93-438), and Title 10, Code of Federal Regulations, Chapter I, Parts 30, 31, 32, 33, 34, 35, 40 and 70, and in reliance on statements and representations heretofore made by the licensee, a license is hereby issued authorizing the licensee to receive, acquire, possess, and transfer byproduct, source, and special nuclear material designated below, to use such material for the purpose(s) and at the place(s) designated below, to deliver or transfer such material to persons authorized to receive it in accordance with the regulations of the applicable Part(s). This license shall be deemed to contain the conditions specified in Section 183 of the Atomic Energy Act of 1954, as amended, and is subject to all applicable rules, regulations and orders of the Nuclear Regulatory Commission now or hereafter in effect and to any conditions specified below.

Licensee		In accordance with application dated January 14, 1985	
1. St. Joseph Radiology Associates, Inc.		3. License number 24-05592-01 is amended in its entirety to read as follows:	
2. 702 Jules Street St. Joseph, MO 64501		4. Expiration date	July 31, 1993
		5. Docket or Reference No.	030-00320
6. Byproduct, source, and/or special nuclear material	7. Chemical and/or physical form	8. Maximum amount that licensee may possess at any one time under this license	
A. Cobalt-60	A. Sealed sources model designation Picker Corp. P3801A	A. 3000 curies per source	

## 9. Authorized Use

- A. Medical use as described in 10 CFR 35.600, in a Picker Corp. Model 6202 (V/3000) teletherapy unit.

CONDITIONS

10. Location of use: St. Joseph Radiology Associates  
702 Jules Street  
St. Joseph, MO
11. Radiation Safety Officer: Joseph L. Fisher, M.D.
12. A. Authorized users: Joseph Fisher, M.D. or Philip Accuff, M.D.  
B. Teletherapy Physicist: Walter J. Kopecky, Ph.D.
13. Pursuant to 10 CFR Part 40, "Domestic Licensing of Source Material", the licensee is authorized to possess, use, transfer, and import up to 999 kilograms of uranium contained as shielding material in the teletherapy units authorized by this license.

8912030377 880727  
REQ3 LIC30  
24-05592-01 PDR

ML30



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
REGION III  
789 ROCKVELL ROAD  
GLEN ELLEN, ILLINOIS 60137

July 10, 1992

Joseph L. Fisher, M.D.  
702 Jules Street  
St. Joseph, MO 64501

Non-Licenfec  
Docket No. 999-90003

Dear Dr. Fisher:

SUBJECT: SECOND REQUEST FOR RESPONSE TO NOTICE OF VIOLATION  
DATED MAY 18, 1992

This acknowledges receipt of your letter dated May 27, 1992 in response to our letter dated May 18, 1992, transmitting a Notice of Violation (Notice).

Although it is your contention that the cobalt-60 source contained in the teletherapy unit referenced in the Notice is owned by St. Joseph Radiology Associates, Inc., the Notice was transmitted to you because the source and unit are located on your property and you maintain control over the security of them. It is important to note that the NRC makes a distinction between owning byproduct material and possessing byproduct material. The NRC requires that a specific license be issued and maintained for the possession of the type and quantity of byproduct material which you are currently storing on your property.

In addition, as described in our May 18, 1992 letter, it is our understanding that St. Joseph Radiology Associates, Inc. is no longer in business and does not exist as a legal entity. Your letter of May 27, 1992 reiterated the fact that St. Joseph Radiology Associates, Inc. is now defunct, and therefore cannot own or possess the byproduct material addressed in the Notice.

Your letter of May 27, 1992 did not address the four areas outlined in the final paragraph of the Notice. Because you possess the cobalt-60 source contained in the teletherapy unit, you are required to respond to the Notice. Please submit a written statement to the NRC within 15 days of the date of this letter, describing (1) the reason for the violation; (2) the corrective steps that have been taken and the results achieved, (3) the corrective steps that will be taken to avoid further violations, and (4) the date when full compliance will be achieved. In addition, in your response, indicate whether you will divest yourself of the byproduct material or obtain a license for possession and storage of the material. We have enclosed a schedule of license fees as you requested in your letter.

J. L. Fisher

- 2 -

July 10, 1992

Deliberate violations of NRC requirements are of particular concern to, and cannot be tolerated by, the NRC. Failure to respond to this letter within the time specified above with your plans to either transfer the material or obtain a license will result in the NRC taking further enforcement actions, such as the issuance of an order to cease and desist from unauthorized activities.

In accordance with 10 CFR 2.790 of the Commission's regulations, a copy of this letter will be placed in the NRC Public Document Room.

The response directed by this letter is not subject to the clearance procedures of the Office of Management and Budget as required by the Paperwork Reduction Act of 1980, PL 96-311.

We will gladly discuss any questions you have concerning this matter.

Sincerely,

*Charles E. Norellius*

Charles E. Norellius, Director  
Division of Radiation Safety  
and Safeguards

Enclosure:  
Schedule of License Fees

cc w/enclosure:  
DCD/DCB (RIDS)  
License File 24-05592-01

Enclosure

TELETHERAPY LICENSING FEES

Fee for a new license:	\$3,400.00
Fee for license renewal:	\$850.00
Fee for license amendment:	\$460.00
Routine Inspection Fee:	\$1,300.00
Non-Routine Inspection Fee:	\$2,000.00

Annual Fee (based upon income of facility, not solely income due to use of the teletherapy unit):

Private Practice: income less than \$250,000.00 gross, per year: \$400.00

Small Entity: income between \$250,000.00 and \$1,500,000.00 gross, per year: \$1,800.00

Large Entity: income greater than \$1,500,000.00 gross, per year: \$17,000.00

MEMO TO: Gary Shear  
FROM: Barbara Hamrick  
RE: Dr. Joseph Fisher

On August 19, 1992 I called Dr. Edward Stevens (816-271-6460). Dr. Stevens said that Dr. Fisher had been in contact with him within the last two weeks. Dr. Stevens also said that Dr. Fisher asked him whether Heartland Hospital might be interested in receiving in transfer Dr. Fisher's teletherapy unit. Dr. Stevens told him that Heartland was in the process of transferring theirs, and they would not be acquiring another. Dr. Stevens also told him that if he heard of anyone interested in the unit, he would put them in contact with Dr. Fisher.

I also called Commerce Bank (816-364-3131). I explained who I was, and that I needed information regarding to whom Dr. Fisher paid rent for his building in St. Joseph. I was told I needed to speak to Mr. William Carpenter, but that he was unavailable. He called me back and said that BBJ Enterprises has an account with Commerce Bank, but that he would not know if Dr. Fisher paid rent to them or not. BBJ simply has an account with Commerce Bank, and the bank does not receive payments on their behalf for rent or otherwise. Mr. Carpenter said he did not know who the president of BBJ was, and the name Bob Allen did not ring any bells for him. He did not know if BBJ has an office or address in California.

*Barbara Hamrick*

## FISHER RADIOLOGICAL CLINIC

702 Jules Street

July 15, 1992

Saint Joseph, Missouri 64501

Mr. Charles Norelius, Director  
Division of Radiation Safety & Safeguards  
United States Nuclear Regulatory  
Commission Region III  
799 Roosevelt Road  
Glen Ellyn, Illinois 60137

Dear Mr. Norelius:

The teletherapy or alt unit you referred to in your letter of July 10 1992 is not stored on my property. The property belongs to a building corporation.

I rent space in this building to practice medicine but I do not own the premises.

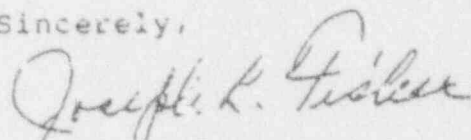
I do not have the finances to pay your exorbitant fee for renewal of license or a new license and the St. Joseph Radiology Associates are defunct.

I would welcome your suggestions as to what might be done to comply with all of your rules. Also, I would welcome some reduction in a possible renewal fee since it is in the same building, a part of which I rent.

I am 79 years old and only practice part time and my income is not near the figure you state in your private practice.

Please let me hear from you.

Sincerely,



Joseph L. Fisher, M. D., F.A.C.R.

JLF:mld

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

In the Matter of	)	
	)	
ST. JOSEPH RADIOLOGY ASSOCIATES, INC.	)	Docket No. 030-00320
and	)	License No. 24-05592-01
JOSEPH L. FISHER, M.D. d.b.a.	)	
ST. JOSEPH RADIOLOGY ASSOCIATES, INC.	)	Docket No. 999-90003
and	)	Non - Licensee
FISHER RADIOLOGICAL CLINIC	)	
	)	EA 92-172
(Byproduct Material License	)	
No. 24-05592-01)	)	

AFFIDAVIT OF JAMES LIEBERMAN

James Lieberman, first being duly sworn, deposes and states:

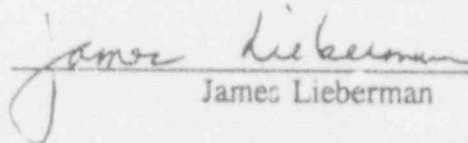
1. My name is James Lieberman. I am employed by the U.S. Nuclear Regulatory Commission as Director, Office of Enforcement. In my capacity as Director, Office of Enforcement, I am responsible for the implementation of the Commission's enforcement program. I advise the Deputy Executive Director for Nuclear Materials Safety, Safeguards, and Operations Support on enforcement matters, including recommending to him that where the public health, safety, and interest so requires, enforcement orders be made immediately effective pursuant to 10 C.F.R. 2.202 of the Commission's regulations. A copy of my professional qualifications is attached hereto as Exhibit A.

2. Based on conversations and correspondence between the Staff and Dr. Fisher, as described in the Affidavit of Patricia A. Santiago, I concluded that, in essence,

Dr. Fisher is taking no responsibility for the maintenance and disposal of the byproduct material, notwithstanding his involvement in the licensed activities. Not to require that the Cobalt source possessed by Dr. Fisher be transferred to an authorized recipient would be contrary to the public health, safety and interest. It would be intolerable to have such a large source not under regulatory control in view of the potential dangers with this source as described in the Affidavit of Patricia A. Santiago.

3. Therefore, based on the facts described in the Order To Transfer Byproduct Material to Authorized Recipient (Effective Immediately) (Order) issued to St. Joseph Radiology Associates, Inc. and Joseph L. Fisher M.D. d.b.a St. Joseph Radiology Associates, Inc. and Fisher Radiological Clinic, and considering the risk to the public health, safety, and interest as described in the Affidavit of Patricia A. Santiago, I recommended to the Deputy Executive Director for Nuclear Materials Safety, Safeguards, and Operations Support that the Order be issued and made immediately effective.

4. The matters stated above are true and correct to the best of my knowledge, information, and belief.

  
James Lieberman

Subscribed and sworn to before  
me this 2nd day of November, 1992

  
Notary Public

My commission expires 12/1/93

## JAMES LIEBERMAN

## EDUCATION:

## Juris Doctor

George Washington University (Washington, D.C.)

September 1971 - May 1974

Graduated with Honors

## Master of Science in Thermal Engineering

Cornell University (Ithaca, New York)

September 1967 - January 1969

Honors: John McHullen Fellowship

## Bachelor of Science in Mechanical Engineering

University of Rhode Island (Kingston, Rhode Island)

September 1963 - June 1967

Honors: Tau Beta Pi (National Engineering Honor Society)

Phi Kappa Phi

## EMPLOYMENT HISTORY:

## Nuclear Regulatory Commission

Washington, D.C.

Office of Enforcement

Director

April 1987 -

Supervisor: Hugh Thompson

Job description: Responsible for managing the Commission's enforcement program.

Award: Senior Executive Bonus 1987, 1988, 1989, 1991, 1992, Presidential

Meritorious Rank Award 1990

Office of the General Counsel

Asst. Gen. Counsel for Enforcement

July 1986 - April 1987

Supervisor: William Parier

Office of the Executive Legal Director

Chief Counsel for Regional

September 1982 - June 1986

Operations &amp; Enforcement

Supervisor: Guy Cunningham

Job description: Responsible for legal review of all enforcement orders, civil penalties, and of post-licensing NRC staff initiated orders, drafting of orders, 2.206 Director's Decisions, and significant correspondence, representation of staff in enforcement proceedings, and counseling on enforcement, inspection, investigation, licensing of operators, and regional matters. Counsels the Executive Director for Operations, Office Directors, Regional Administrators, Director Office of Investigations, and other NRC managers.

Award: Senior Executive Service Bonus 1984

Office of Inspection and Enforcement

Director Enforcement Staff

January 1982 - September 1982

Supervisor: Richard DeYoung

Job description: Responsible for developing and implementing the Nuclear Regulatory Commission's enforcement program, approving all escalated enforcement actions including all civil penalties and orders, and assessing the enforcement activities of the regional offices.

Awards: NRC Meritorious Service Award (January 1982); Special Achievement Award (September 1982)

James Lieberman

Nuclear Regulatory Commission

Washington, D.C.

Office of the Executive Legal Director

Deputy Chief Counsel for Rulemaking  
and Enforcement (since May 1980)

August 1974 - December 1981

Supervisor: Howard K. Shapar

Job description: Assisted, and acted for in the absence of, the Chief Counsel for Rulemaking and Enforcement, reviewed escalated enforcement actions, represented staff in enforcement proceedings, provided counsel to headquarters and regional offices on inspection and enforcement matters, and represented the staff in S-3 and Access rulemaking hearings. Assisted Chief Counsel for Hearings and represented staff in licensing hearings. Assisted Chief Counsel for Operations and Administration and provided legal advice in a variety of areas including government contracts, personnel, Freedom of Information Act, Privacy Act, and National Security. Assisted Chief Counsel for Regulations and drafted regulations; reviewed regulatory guides, researched matters related to the Atomic Energy and Energy Reorganization Acts, and provided legal assistance during the reorganization from AEC to NRC.

Awards: Special Achievement Awards (October 1975 and December 1978) and High Quality Service Awards (May 1976 and August 1980)

McKean, Whitehead & Wilson

Law Clerk

Washington, D.C.

May 1973 - May 1974

Supervisor: David McKean/Thomas J. Whitehead

Job description: Prepared legal memoranda on substantive and procedural issues pertaining to litigation before the Federal Trade Commission.

Berlin, Roisman & Kessler

Legal Assistant under Environmental  
Clinical Law Program sponsored by  
George Washington University;

Washington, D.C.

Spring Semester 1973

Supervisor: Anthony Roisman

Job description: Prepared legal comments for S-3 rulemaking.

Eastman Kodak Company

Development Engineer

Rochester, New York

October 1968 - July 1971

Job description: Designed equipment for optimizing film surface quality. Performed heat transfer calculations for a satellite.

Combustion Engineering Company

Engineer

Windsor, Connecticut

Summer 1967

Job description: Heat transfer and fluid dynamic calculations for boiler systems of fossil fuel electrical generating stations.

LICENSES: Member of the Virginia Bar and the District of Columbia Bar; E.I.T.  
Certificate (Rhode Island Board of Professional Engineers)

PUBLICATIONS: Generic Hearings: Preparation for the Future, 16 Atomic Energy  
L.J. 191 (1974); Interactions in Natural Convection, 12 Int. J. Heat Transfer  
1383 (1969)

PERSONAL: Birthdate: November 24, 1945; married; two children.

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

DOCKETED  
USNRC

BEFORE THE COMMISSION

'92 NOV -3 P3:56

In the Matter of

ST. JOSEPH RADIOLOGY ASSOCIATES  
and JOSEPH L. FISHER, M.D. dba  
ST. JOSEPH RADIOLOGY ASSOCIATES  
and FISHER RADIOLOGICAL CLINIC

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Docket No. 030-00320  
License No. 24-05592-01  
Docket No. 999-90003  
Non - Licensee  
EA 92-172

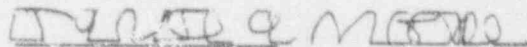
OFFICE OF SECRETARY  
NUCLEAR REGULATORY COMMISSION

NOTICE OF APPEARANCE

Notice is hereby given that the undersigned attorney enters an appearance in the above-captioned matter. In accordance with § 2.713(b), 10 C.F.R., Part 2, the following information is provided:

Name: Janice E. Moore  
Address: U.S. Nuclear Regulatory Commission  
Office of the General Counsel  
Washington, D.C. 20555  
Telephone Number: (301) 504-1588  
Admissions: District of Columbia Court of Appeals  
Name of Party: NRC Staff

Respectfully submitted,



Janice E. Moore  
Deputy Assistant General Counsel for  
Advanced Reactor and Special Proceeding

Dated at Rockville, Maryland  
this 2nd day of November, 1992

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

92 NOV -3 P3:56

in the Matter of

ST. JOSEPH RADIOLOGY ASSOCIATES  
and JOSEPH L. FISHER, M.D. dba  
ST. JOSEPH RADIOLOGY ASSOCIATES  
and FISHER RADIOLOGICAL CLINIC

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Docket No. 030-00320  
License No. 24-05592-01  
Docket No. 999-90003  
Non - Licensee  
EA 92-172

OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

NOTICE OF APPEARANCE

Notice is hereby given that the undersigned attorney enters an appearance in the above-captioned matter. In accordance with § 2.713(b), 10 C.F.R., Part 2, the following information is provided:

Name: Marian L. Zobler

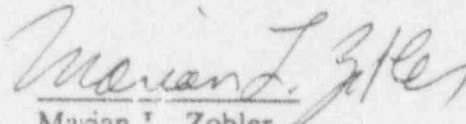
Address: U.S. Nuclear Regulatory Commission  
Office of the General Counsel  
Washington, D.C. 20555

Telephone Number: (301) 504-1572

Admissions: New York State Supreme Court,  
Appellate Division, Second Dept.  
District of Columbia Court of Appeals

Name of Party: NRC Staff

Respectfully submitted,

  
Marian L. Zobler  
Counsel for NRC Staff

Dated at Rockville, Maryland  
this 2nd day of November, 1992.

DOCKETED  
USNRC

'92 NOV -3 P3:56

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License No. 24-05592-01

EA 92-172

Janice E. Moore  
Deputy Assistant  
General Counsel