



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

AUG 22 1989

Docket No. 50-170
License No. R-84
EA 88-289

Defense Nuclear Agency
Armed Forces Radiobiology
Research Institute
ATTN: Colonel George Irving, III
USAF, BSC
Director
Bethesda, Maryland 20814-5145

Gentlemen:

Subject: ORDER IMPOSING A CIVIL MONETARY PENALTY

This letter refers to your two letters dated May 4, 1989 and letter dated June 29, 1989, in response to the Notice of Violation and Proposed Imposition of Civil Penalty (Notice) sent to you by letter dated March 22, 1989. Our letter and Notice described violations identified during NRC Inspection No. 88-01, conducted in October and November 1988, as well as during the NRC review of the findings made by the Area Director of the United States Department of Labor (DOL) Wage and Hour Office in Baltimore, Maryland concerning a complaint filed with DOL by a former employee alleging discrimination for raising safety concerns.

The violations were classified in the aggregate as a Severity Level III problem and a civil penalty in the amount of \$2,500 was proposed to emphasize the need for increased and improved management attention to facility operations to ensure that (1) deficiencies, when they exist, are promptly identified and corrected, and (2) individuals who identify these concerns feel free to raise them to management without fear of reprisal.

In your response to the Notice, you admit the occurrence of two of the violations (Violations A and C), admit two of the five examples of a third violation (Violation B.3 and B.4), deny the remaining three examples of that violation (Violation B.1.a, B.1.b, and B.2), and deny one violation (Violation D). Further, you request that the civil penalty not be imposed, for the reasons described in your response and summarized in the Appendix to the enclosed Order Imposing a Civil Monetary Penalty. Your June 20, 1989 letter withdrew your arguments regarding the constitutionality of the civil penalty proposed by the NRC. After careful consideration of your response, we have concluded, for the reasons given in the Appendix, that the violations did occur as stated in the Notice and a sufficient basis was not provided for mitigation of the amount of the civil penalty. Accordingly, we hereby serve the enclosed Order on the Defense Nuclear Agency imposing a civil monetary penalty in the amount of Two Thousand Five Hundred Dollars. We will review the effectiveness of your corrective actions during a subsequent inspection.

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

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PDR ADOCK 05000170
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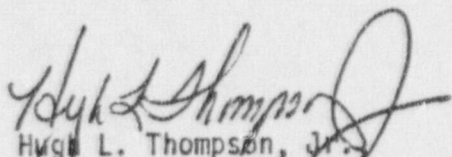
JEM
11

Defense Nuclear Agency

- 2 -

In accordance with Section 2.790 of the NRC's "Rules of Practice," Part 2, Title 10, Code of Federal Regulations, a copy of this letter and the enclosures 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

Enclosures:

1. Order Imposing Civil Monetary Penalty
2. Appendix - Evaluation and Conclusion

cc w/encls:

M. L. Moore, Reactor Facility Director
Public Document Room (PDR)
Local Public Document Room (LPDR)
Nuclear Safety Information Center (NSIC)
State of Maryland (2)