UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION III
2443 WARRENVILLE ROAD STE 210
LISLE, ILLINOIS 60532-4352

NOV 1 0 2005

Robert M. Zerr
Radiation Safety Officer
Director, Risk Management & Safety
University of Notre Dame
636 Grace Hall
Notre Dame, IN 46556

Dear Mr. Zerr:

This refers to your letters dated August 9, 2005, and August 31, 2005, requesting an amendment to your byproduct materials license no. 13-01983-15 for the purpose of releasing for unrestricted use the Medical Science Building located on the campus of the University of Notre Dame.

This also refers to the telephone conversations between you, Andrew Welding of your staff and me on September 2, 2005, September 6, 2005, and on or about September 19, 2005. During the telephone conversations, we discussed the applicability of NUREG 1757, Vol. 1, Section 15.5.3, to your situation regarding the release of buildings for unrestricted use after decommissioning and whether an amendment to your license for the purpose of releasing for unrestricted use the Medical Science Building was necessary. We consulted our regional Decommissioning Branch for its opinion in this matter as well.

During our review we noted that this license is a broad scope license with authority to approved and remove locations of use. Additionally, there was no indication in the information provided that the radiological levels were in excess of unrestricted area release criteria established by NRC or that a decommissioning plan was needed. It was noted that neither 10 CFR Part 30, Section 30.36, "Expiration and Termination of Licenses and Decommissioning of Sites and Separate Buildings or Outdoor Areas," or NUREG 1757, Volume 1, "Consolidated NMSS Decommissioning Guidance, Decommissioning Process for Materials Licensees," required you to notify us.

As a result of our review and the telephone discussions with you, it was agreed that NUREG 1757, Vol. 1, Section 15.5.3 does apply to your circumstances and, absent decommissioning findings indicating residual radioactivity such that the building or outdoor area is unsuitable for release in accordance with NRC unrestricted release criteria, the Medical Science Building may be internally released for unrestricted use. You also agreed to retain the survey and historical decommissioning records required pursuant to 10 CFR 30.35(g).

As we discussed during the telephone conversation on or about September 19, 2005, we have voided your request for an amendment to the license under Control No. 314751 because it is not necessary. If you have any questions or require clarification on any of the information stated above, you may contact me at either (630) 829-9841 or (630) 829-9500, ext.9841.

NUREG 1757, Vol. 1, Section 15.5.3, which was sent to you by a previous reviewer and which is available on our website, is excerpted as follows:

"Broad scope licensees pursuant to 10 CFR Part 33 are authorized to internally establish, terminate, and resume uses of licensed materials at separate locations (e.g., individual laboratories within a building). Typically, based on license conditions, these licensees are not required to notify NRC as described in 10 CFR 30.36(d), because a decision has not been made to permanently cease principal activities at the entire site or in any separate building. Broad scope licensees also have license requirements incorporated into their operational program for the release of existing and approval of new material use areas. Furthermore, broad scope licensees generally would not have to submit a DP and would not request an amendment to their license to describe changes in areas of use. Broad scope licensees who issue internal approvals would only be required to maintain records of the decommissioning for review by NRC inspectors, per 10 CFR 30.35(g).

However, two specific provisions of 10 CFR Part 30, Section 30.36, "Expiration and termination of licenses and decommissioning of sites and separate buildings or outdoor areas," 10 CFR 30.36(d)(2) and (4) apply to broad scope licensees:

10 CFR 30.36(d)(2) states that the licensee has decided to permanently cease principal activities, as defined in this part, at the entire site or in any separate building or outdoor area that contains residual radioactivity such that the building or outdoor area is unsuitable for release in accordance with NRC requirements; or

10 CFR 30.36(d)(4) states that no principal activities have been conducted for a period of 24 months in any separate building or outdoor area that contains residual radioactivity such that the building or outdoor area is unsuitable for release in accordance with NRC requirements.

A key qualifier, cited in the above subsections, is the emphasis placed on the presence of radiological contamination in excess of NRC unrestricted release limits in licensed facilities (separate buildings or areas). Therefore, broad scope licensees who remediate their facilities to meet operational radiological release limits (specified in their license) may find that information on areas where past licensed activities were conducted do not need to be provided to NRC as required in 10 CFR 30.36, and would need only to maintain records (10 CFR 30.35(g)) for NRC inspection. Since licensees must account for dose consequences for all past areas of use upon license termination, licensees who elect not to notify NRC may wish to contact NRC prior to relinquishing control of a building or area, if prior to license termination. Licensees are also encouraged to review decommissioning surveys in Section 15.4 to ensure that the operational release surveys contain sufficient information to satisfy FSS requirements at license termination.

However, just as required for a specific licensee, if a broad scope licensee were to identify a building or area in excess of NRC's unrestricted release criteria, or if the remediation would

require use of procedures not approved in their license, or if the remediation would have adverse dose consequences upon workers, the public, or the environment, they would also be required to notify NRC, as well as to make a determination as to whether or not a DP is required."

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter will be available electronically in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). The NRC's document system is accessible from the NRC Web site at http://www.nrc.gov/reading-rm/adams.html.

Sincerely,

Colleen Carol Casey

Colleen Carol Casey
Materials Licensing Branch

License No. 13-01983-15
Docket No. 030-00694