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August 18, 1997

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

OFFICE OF SECRETARY
DOCKETING & SERVICE
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BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
)
BARNETT INDUSTRIAL X-RAY, INC.) Docket No. 030-30691-CivP
)
(Stillwater, Oklahoma))

JOINT PREHEARING REPORT

Pursuant to the Atomic Safety and Licensing Board's "Memorandum and Order (Initial Prehearing Order)," dated July 18, 1997, the staff of the Nuclear Regulatory Commission (Staff) and Barnett Industrial X-Ray, Inc. (Licensee) hereby submit a joint prehearing report.

I. Stipulated Issues

The Staff and Licensee stipulate that the facts set forth in the February 24, 1997 Notice of Violation occurred as stated. In particular, the Notice of Violation states:

- A. 10 CFR 34.43(b) requires, in part, the licensee to ensure that a survey with a calibrated and operable radiation survey instrument is made after each exposure to determine that the sealed source has been returned to its shielded position. The survey must include the entire circumference of the radiographic exposure device and the source guide tube.

On October 3, 1996, a radiographer's assistant did not perform a survey after a radiographic exposure to determine that the sealed source had been returned to its shielded position.

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- B. 10 CFR 34.33(a) requires, in part, that the licensee not permit any individual to act as a radiographer or radiographer's assistant unless, at all times during radiographic operations, the individual wears a direct-reading pocket dosimeter, an alarm ratemeter, and either a film badge or a thermoluminescent dosimeter.

On October 3, 1996, neither a radiographer nor his radiographer's assistant wore a direct-reading pocket dosimeter, alarm ratemeter, and a film badge or thermoluminescent dosimeter while conducting radiographic operations.

- C. 10 CFR 34.44 requires that whenever a radiographer's assistant uses radiographic exposure devices, uses sealed sources or related source handling tools, or conducts radiation surveys required by 10 CFR 34.43(b) to determine that the sealed source has returned to the shielded position after an exposure, he shall be under the personal supervision of a radiographer. The personal supervision shall include: (a) the radiographer's personal presence at the site where sealed sources are being used; (b) the ability of the radiographer to give immediate assistance if required; and (c) the radiographer watching the assistant's performance of the above referred-to operations.

On October 3, 1996, a radiographer's assistant operated a radiographic exposure device without the personal supervision of a radiographer at the Conoco Oil refinery in Ponca City, Oklahoma. Specifically, the supervising radiographer failed to observe the assistant retract a sealed source after a radiographic exposure was completed. The radiographer also failed to observe the assistant as he approached the device, retrieved the film, and attempted to disassemble the equipment. As a result a radiographer failed to notice that the assistant did not perform a survey of the exposure device and had not secured the sealed source assembly inside the exposure device in a fully shielded position.

II. Central Issues For Litigation

- A. Whether the violations represent a Severity Level II problem in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions" (Enforcement Policy), NUREG-1600.
- B. Whether a \$4,000 Civil Penalty is warranted in light of the mitigating efforts exhibited by the Licensee.

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B. Issues Amenable to a Dispositive Motion

The Staff believes that issues A and B are amenable to a dispositive motion with discovery.

C. Length of Discovery

The Staff and the Licensee estimate that 60 days would be sufficient for discovery.

D. Length of Evidentiary Hearing

The Licensee and the Staff estimate that the time it would take for an evidentiary hearing is one to two days.

D. Settlement

Settlement discussions between the parties have not been initiated.

Respectfully submitted,

FOR BARNETT INDUSTRIAL X-RAY, INC.



G. Michael Solomon
Counsel for Barnett Industrial X-Ray, Inc.

FOR THE NRC STAFF



Richard G. Bachmann
Counsel for NRC staff

Dated this 18th day of August, 1997

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CERTIFICATE OF SERVICE

I hereby certify that copies of "JOINT PREHEARING REPORT" in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class, as indicated by asterisk or through deposit in the Nuclear Regulatory Commission's internal mail system this 18th day of August, 1997:

B. Paul Cotter, Jr., Chairman
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Dr. Richard F. Cole
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
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A handwritten signature in black ink, appearing to read 'R. Bachmann', written over a horizontal line.

Richard G. Bachmann
Counsel for NRC Staff