

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

DOCKETED  
USNRC

ATOMIC SAFETY AND LICENSING BOARD

'97 AUG 21 P3:10

Before Administrative Judges:

B. Paul Cotter, Jr., Chairman  
Dr. Richard F. Cole  
Dr. Thomas S. Elleman

OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

SERVED AUG 21 1997

In the Matter of  
BARNETT INDUSTRIAL X-RAY, INC.  
  
(Stillwater, Oklahoma)

Docket No. 030-30691-CivP

ASLBP No. 97-730-02-CivP

August 21, 1997

MEMORANDUM AND ORDER

Pursuant to this Board's Memorandum and Order dated July 18, 1997, the parties to this appeal from an Order Imposing Civil Monetary Penalty filed a Joint Prehearing Report dated August 18, 1997. In that report the parties stipulated as to the principal facts of the case; identified two central issues for litigation (with the Staff stating its belief that they were amenable to a dispositive motion after discovery); asserted the need for sixty days to complete discovery; estimated that one or two days would be sufficient for an evidentiary hearing; and noted that settlement discussions between the parties had not been initiated.

Based on the record to date the Board finds that the issues in dispute are straightforward and reasonably well defined. They turn on the exercise of judgment by the Staff, and that exercise

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is ultimately a matter of fact disputed by the parties. The Board thus finds that a motion for summary judgment will not aid in the disposition of this case.

For all the foregoing reasons and upon consideration of the entire record in this matter, it is, this 21st day of August 1997

ORDERED

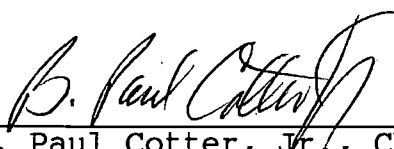
1. That a telephone prehearing conference shall take place at 9:30 a.m. Wednesday, September 3, 1997 to discuss the steps necessary to reach hearing pursuant to 10 C.F.R. § 2.752;

2. That the following schedule for reaching hearing shall govern subject to any modifications agreed upon at the telephone prehearing conference:

|                    |                           |
|--------------------|---------------------------|
| September 22, 1997 | Discovery concludes;      |
| October 10, 1997   | Prefiled testimony filed; |
| October 21, 1997   | Hearing begins.           |

3. The hearing shall commence at 10:00 a.m. on Tuesday, October 21, 1997, in or near Stillwater, Oklahoma at a place to be determined.

FOR THE ATOMIC SAFETY  
AND LICENSING BOARD

  
B. Paul Cotter, Jr., Chairman  
CHIEF ADMINISTRATIVE JUDGE

Issued at Rockville, Maryland

August 21, 1997

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of

BARNETT INDUSTRIAL X-RAY, INC.

(Order Imposing Civil Monetary  
Penalty)

Docket No.(s) 30-30691-CIVP

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB MEMORANDUM AND ORDER - 8/21 have been served upon the following persons by U.S. mail, first class, except as otherwise noted and in accordance with the requirements of 10 CFR Sec. 2.712.

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P.O. Box 1991  
Stillwater, OK 74076

Dated at Rockville, Md. this  
21 day of August 1997

  
Office of the Secretary of the Commission