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'98 MAY 18 P2:27

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

In the Matter of)	
)	Docket No. 30-31373-CivP
CONAM INSPECTION, INC.)	
)	
(Order Imposing Civil Monetary Penalty))	ASLBP No. 98-735-01-CivP

**CONAM'S RESPONSE TO NRC STAFF MOTION FOR AN
ORDER COMPELLING ANSWER TO STAFF INTERROGATORY**

NOW COMES Conam Inspection, Inc., by its attorneys, and for its Response to the May 7, 1998 Motion by the NRC Staff for an order compelling Conam to reply to Staff Interrogatory No. 9, states as follows:

Initially, with respect to the Staff's attempt to differentiate between the "draft" and the "final" version of ANSI N13.41, the Board should recognize the following chronology. On June 20, 1996, the final voting results of the consensus group which reviewed the recommendations of the Committee (which Ms. Berger chaired) were formally recorded. The Standard (ANSI N13.41) was approved for publication by the American National Standards Institute on December 31, 1996. However, the Standard was not actually "published" and thus, available for distribution by the ANSI until January, 1997.

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By reason of her position as Chairperson of the Committee charged with the drafting of ANSI N13.41, Ms. Berger was aware on December 10, 1996, the date of her letter to Conam referred to at page 3 of the Staff's Motion, of the results of the final voting of the consensus group on June 20, 1996, and that the ANSI had in fact approved the draft Standard. Because there were no substantive changes between the consensus-approved June 20, 1996 draft and the final published Standard, Ms. Berger relied upon the "draft" standard in her analysis. Because the final published version of the Standard had not been issued on December 10, 1996, however, Ms. Berger continued to refer to the Standard as a "draft" in her letter to Conam.

As respects to what we believe to be the "substance" of the Staff's argument, i.e., how to reconcile the "scope" statement in ANSI N13.41, which excludes applicability to "accidental" radiation exposures, and to explain how Ms. Berger nevertheless relied upon the Standard in her radiation dose assessment of Mr. Chastain, Conam replies as follows.

First, a fair reading of Ms. Berger's response to Staff Interrogatory No. 9 (quoted in its entirety at page 2 of the Staff's Motion), makes clear that she did not in fact, as charged by the Staff, "fail to address this Interrogatory and to address its substance" (Staff Motion, page 3). In fact, her response did fully address Interrogatory No. 9 as it was posed by the Staff. Nevertheless, in an effort to lend further clarity to Ms. Berger's position, as respects her ability to use ANSI N13.41 in assessing the radiation dose received by Mr. Chastain on February 27, 1996, Conam responds as follows.

Being possessed, as the Staff acknowledges, with "unique qualifications to provide a cogent answer" to Interrogatory No. 9, Ms. Berger was aware, as the Chairperson of the ANSI Committee which promulgated the Standard, that the primary focus of ANSI N13.41 is multiple dosimeter use, placement and data, interpretation/recording when job pre-planning is in fact possible. Multiple dosimeters were not worn by Mr. Chastain during the incident in question, and therefore issues regarding their potential placement and use are obviously not relevant. Nevertheless, the fact that Mr. Chastain did not wear multiple dosimeters during his accidental exposure, does not preclude use of the ANSI N13.41 compartment factors *developed specifically for cases of non-uniform exposure of the body* for dose assessment purposes. That determination requires only a reliable assessment of the exposure to the compartment in question.

As the Staff correctly notes, Section 2 of the Standard entitled, "Scope" contains the following statement: "Sudden or unexpected changes in the radiation environment as might occur during accidents are beyond the scope of this standard." Nevertheless, using the principles announced in the Standard, it is clear that this "scope" statement is intended to re-enforce one of the most important underlying features of the Standard -- that being the need for "job pre-planning" to optimize dosimeter placement and dosimeter orientation with respect to the radiation source. If, for example, a radiation event unexpectedly causes a portion of a compartment to receive a higher exposure than the dosimeter placed in that compartment, or if an unmonitored compartment receives an unexpected radiation dose, or if the event unexpectedly exposes the dosimeter from an

orientation that is not consistent with its original calibration geometry, the dosimeter results cannot be used to assess the radiation dose to that compartment. However, if the dose to the compartment in question can be estimated by another means (i.e., by a combination of measurement, time-and-motion study and calculation, as was done in Mr. Chastain's case), the compartment factors that appear in ANSI N13.41 are nevertheless applicable for dose assessment purposes, because their derivation/use has nothing whatsoever to do with measurement reliability.

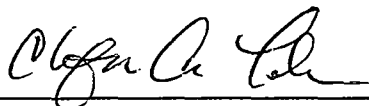
In its May 7, 1998 motion, the Staff stated that it must know "how and upon what justification Conam's radiation consultant calculated the dose Mr. Chastain received based upon ANSI HPS N13.41 - 1997," which she stated caused no changes in her calculations from the draft standard. Ms. Berger's methodology for calculating the radiation dose received by Mr. Chastain's was clearly described in her December 10, 1996 letter. The "justification" for that methodology was provided in that same letter, as well in Ms. Berger's response to the Staff's interrogatories.

For the above reasons, Conam states that Ms. Berger has fully answered Staff Interrogatory No. 9. In the event there remains any doubt in the Board's mind on this point, this Response to the Staff's Motion should put such doubts to rest.

WHEREFORE, Conam respectfully requests that the Board deny the Staff's Motion.

Respectfully submitted,

CONAM INSPECTION, INC.



Clifton A. Lake, Esq.
Counsel for Conam Inspection, Inc.

Dated at Chicago, Illinois
this 14th day of May, 1998.

Clifton A. Lake, Esq.
McBride Baker & Coles
500 West Madison, 40th Fl.
Chicago, IL 60661-2511
(312) 715-5700

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OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

CERTIFICATE OF SERVICE

I hereby certify that copies of **CONAM'S RESPONSE TO NRC STAFF
MOTION FOR AN ORDER COMPELLING ANSWER TO STAFF
INTERROGATORY** in the above-captioned proceeding have been served on the
following by deposit in the United States Mail, First Class (and via telecopy where
indicated), this 14th day of May, 1998.

Charles Bechhoefer, Chairman
Administrative Judge
Atomic Safety and Licensing Board
Mail Stop: T-3 F23
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
Fax: (301) 415-5599

Charles A. Barth
U.S. Nuclear Regulatory Commission
Office of the General Counsel
Washington, D.C. 20555
Fax: (301) 415-3725

Dr. Richard F. Cole
Administrative Judge
Atomic Safety and Licensing Board
Mail Stop: T-3 F23
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
Fax: (301) 415-5599

Regional Administrator
U.S. Nuclear Regulatory Commission
Region III
801 Warrenville Road
Lisle, Illinois 60532

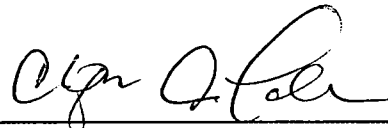
Mr. Charles N. Kelber
Administrative Judge
Atomic Safety and Licensing Board
Mail Stop: T-3 F23
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
Fax: (301) 415-5599

Office of Commission Appellate
Adjudication
Mail Stop: O-16 G15
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Atomic Safety and Licensing Board Panel
Mail Stop: T-3 F23
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Adjudicatory File (2)
Atomic Safety and Licensing Board Panel
Mail Stop: T-3 F23
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Secretary (2)
Attn: Rulemakings and Adjudications Staff
Mail Stop: O-16 G15
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555



Clifton A. Lake, Esq.
Counsel for Conam Inspection, Inc.

Dated: May 14, 1998