



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**
WASHINGTON, DC 20555-0001

November 17, 2016

Docket Nos. 03037882
03037957
EA-16-055

License Nos. 52-31352-01MD
52-31352-02

Frank S. Kolodziej Castro, M.D.
President and Owner
International Cyclotron, Inc.
Ashford Avenue 888 PH
San Juan, PR 00907

SUBJECT: ORDER IMPOSING CIVIL MONETARY PENALTY - \$14,000

Dear Dr. Kolodziej:

This refers to the Notice of Violation and Proposed Imposition of Civil Penalty (Notice) sent as an enclosure to our letter dated August 30, 2016 (ML16238A071)¹. Our letter and Notice described one violation identified by the NRC through its review of International Cyclotron's site decommissioning activities.

To emphasize that International Cyclotron must meet its obligation to decommission its facility and ensure the proper transfer or disposal of licensed material in its possession, a civil penalty of \$14,000 was proposed.

In a letter dated September 13, 2016 (ML16266A337), an attorney on your behalf stated that his firm was assisting International Cyclotron with establishing a financial assurance instrument and with arranging for another company to operate or purchase the cyclotron. The attorney noted that, with more time, an arrangement could be made.

After consideration of the letter from your representative, we have concluded that the violation occurred as stated and that the penalty proposed for the violation designated in the Notice should be imposed. In reaching this determination, the NRC staff considered that International Cyclotron was informed of the requirement to obtain financial assurance nearly seven years ago, was issued the Order to cease operations more than four years ago, and was required to complete decommissioning of its site by April 18, 2016. During this timeframe, you and your representatives have repeatedly informed the NRC that you were working to obtain financial assurance and were seeking to find an operator/buyer for the facility. However, neither of these actions have occurred and, to date, no actions have been taken towards site decommissioning.

¹ Designation in parentheses refers to an Agency-wide Documents Access and Management System (ADAMS) accession number. Documents referenced in this letter are publicly-available using the accession number in ADAMS.

Accordingly, we hereby serve the enclosed Order on International Cyclotron imposing a civil monetary penalty in the amount of \$14,000. Within 30 days from the date of the enclosed Order, you should either: (1) pay the civil penalty in accordance with Section IV of the Order, (2) request Alternative Dispute Resolution, (ADR) as discussed below, or (3) request a hearing in accordance with Section V of the Order.

You may request ADR with the NRC in an attempt to resolve this issue. ADR is a general term encompassing various techniques for resolving conflicts using a neutral third party. The technique that the NRC has decided to employ is mediation. Mediation is a voluntary, informal process in which a trained neutral (the "mediator") works with parties to help them reach resolution. If the parties agree to use ADR, they select a mutually agreeable neutral mediator who has no stake in the outcome and no power to make decisions. Mediation gives parties an opportunity to discuss issues, clear up misunderstandings, be creative, find areas of agreement, and reach a final resolution of the issues. Additional information concerning the NRC's ADR program can be found at <http://www.nrc.gov/about-nrc/regulatory/enforcement/adr.html>.

The Institute on Conflict Resolution (ICR) at Cornell University has agreed to facilitate the NRC's program as a neutral third party. If you are interested in pursuing this issue through the ADR program, please contact: (1) the ICR at (877) 733-9415; and (2) Mr. Blake Welling at (610) 337-5205 within 10 days of the date of this letter. You may also contact both ICR and Mr. Welling for additional information. Your submitted signed agreement to mediate will stay the 30-day time period for payment of the civil penalties, as identified in the enclosed Order, until the ADR process is completed.

We will review the effectiveness of your corrective actions during an inspection within six months of the issuance of the enclosed Order. At that time, we will also consider the need to impose additional civil penalties, including daily penalties, which would continue to be assessed until you address the violation by taking action to decommission your site.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosures, and your response, if you choose to provide one, will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction.

F. Kolodziej Castro, M.D.

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The NRC also includes significant enforcement actions on its Web site (<http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>).

Sincerely,

/RA/

Patricia K. Holahan
Director
Office of Enforcement

Enclosures:

1. Order Imposing Civil Monetary Penalty
2. NUREG/BR-0254 Payment Methods (Licensee only)

cc w/enclosures:

David M. Rhoe, Radiation Safety Officer
Eugenio Ibarra Pereira, Ibarra & Bonilla Law Offices
Commonwealth of Puerto Rico

F. Kolodziej Castro, M.D.

-3-

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David M. Rhoe, Radiation Safety Officer
Eugenio Ibarra Pereira, Ibarra & Bonilla Law Offices
Commonwealth of Puerto Rico

ADAMS Package: ML16294A406
ADAMS ML16294A417

OFFICE	RI/ ORA	RI/ DNMS	RI/ DNMS	RI/ ORA	RI/ ORA
NAME	M McLaughlin/ MMM*	B Welling/ BDW*	J Trapp/ JMT*	B Klukan/ BMK*	B Bickett/ BAB*
DATE	9/26/16	9/28/16	9/29/16	10/11/16	10/03/16
OFFICE	RI/ ORA	OE	NMSS	OGC	OE
NAME	D Dorman/ DHD*	R Fretz	M Burgess	E Montieth (NLO)	P Holahan
DATE	10/12/16	10/28/2016	10/18/16	11/10/16	11/17/16

*Concurrence on previous page

OFFICIAL RECORD COPY

LETTER TO FRANK S. KOLODZIEJ CASTRO, M.D. FROM PATRICIA HOLAHAN

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Enforcement Coordinators

RII, RIII, RIV (M. Kowal; R. Skokowski; M. Hay)

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Region I OE Files (with concurrences)