



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

DCS
PDR

October 31, 1996

EA 96-041

Mr. Gene Bacon
Plant Manager
The Dial Corporation
110 West First Street
London, Ohio 43140

SUBJECT: ORDER IMPOSING CIVIL MONETARY PENALTY - \$2,500
(NRC Inspection Report No. 999-90003/95025(DNMS))

Dear Mr. Bacon:

This refers to letters from The Dial Corporation (Dial) dated July 16, 1996, in response to the Notice of Violation and Proposed Imposition of Civil Penalty (Notice) sent to you by our letter dated June 18, 1996. It also refers to an April 9, 1996 letter from Dial in response to the inspection report which was forwarded to Dial on March 12, 1996. Our letters and Notice described a violation identified during a special safety inspection conducted from January 22 to February 21, 1996.

To emphasize the need to strictly control licensed material, a civil penalty of \$2,500 was proposed.

In your April 9, 1996 response, Dial admits the violation. In the letters of July 16, 1996, Dial alleged errors in the NRC cover letter for the Notice as to its efforts to locate the source and reporting its loss and requested mitigation of the proposed civil penalty. Dial's reasons for requesting mitigation of the civil penalty are that Dial began an immediate search for the source and notified the NRC once it became known to Dial that the source was missing. Dial contended that there were extenuating and special circumstances associated with the loss of the americium-241 source that the NRC should consider, that a civil penalty would have no deterrent effect, and the NRC enforcement program and goals would not be served by imposing a penalty. Dial claimed it was unaware of the existence of the generally licensed device from the time that Dial purchased the facility in 1985 until the loss of the source was discovered in October 1995. Dial also suggested that if the NRC must impose a civil penalty, \$730 was a reasonable amount based on estimated disposal costs.

After consideration of your responses, we have concluded, for the reasons given in the Appendix attached to the enclosed Order Imposing Civil Monetary Penalty that the civil penalty assessment is warranted. The NRC recognizes that the civil penalty assessment would ordinarily result in no civil penalty in this case; however, the NRC is exercising discretion to impose a base civil

JE14

The improper disposal or transfer of a nominal 200 millicurie (7.4 GBq) americium-241 source.

010003

9611010239 961031
REG3 QA999 EMV*****
99990003 PDR

penalty in accordance with the Enforcement Policy. This exercise of discretion reflects the NRC's added concern for the potential safety consequences associated with the type of radioactive material that Dial failed to control and which may exist in the public domain.

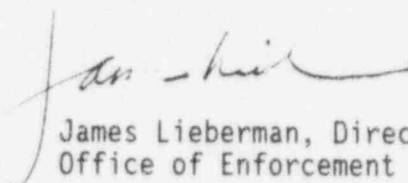
Historically, uncontrolled radioactive material has resulted in radiation exposure to members of the general public, contamination in scrap yards and foundries as a result of smelting activities, and environmental contamination. In order to emphasize the importance of adequate oversight and control of radioactive material, we hereby serve the enclosed Order on The Dial Corporation imposing a civil monetary penalty in the amount of \$2,500. As provided in Section IV of the enclosed Order, payment should be made within 30 days of the date of this Order, by check, draft, money order, or electronic transfer, payable to the Treasurer of the United States and mailed to Mr. James Lieberman, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852-2738.

We note that the Dial facility at London, Ohio, no longer possesses NRC-licensed material. Furthermore, the July 16, 1996, "Answer to a Notice of Violation" from Dial states that Dial does not plan to obtain any NRC-licensed material in the future. Therefore, we do not have any questions regarding your corrective actions to these concerns.

Should you have any questions concerning this matter, please contact me at (301) 415-2741.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter and the enclosures will be placed in the NRC's Public Document Room.

Sincerely,



James Lieberman, Director
Office of Enforcement

Docket No. 999-90003
General License

Enclosure: As Stated

cc w/encl:
William A. Arbitman
Associate General Counsel
The Dial Corporation