

PDR



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

July 18, 1985

CERTIFIED MAIL

Jeffrey B. Rose
Attorney at Law
173 West Madison Street
Suite 1004
Chicago, Illinois 60602

Re: Zinovy V. Reytlblatt

Dear Mr. Rose:

On May 7, 1985, we received your request that we reconsider our denial of Dr. Reytlblatt's claim. In support of your request you submitted Dr. Reytlblatt's affidavit in which he denied that he gave his permission to E. Gunter Arndt and Edward C. Shomaker of NRC to submit a document entitled "Containment Leak Rate Testing Requirements" to Oak Ridge National Laboratory (ORNL). His denial is contradicted not only by the affidavits of Dr. Arndt and Mr. Shomaker, but also by Dr. Reytlblatt's letter to Dr. Arndt dated May 23, 1983, and Dr. Arndt's notes of the meeting on May 5, 1983.

In his letter dated May 23, 1983, Dr. Reytlblatt submitted a formal request under 10 CFR 2.790 that proprietary information contained in amended parts of the "Containment System Leakage Testing Requirements" be withheld. He specifically stated,

"This material is for your internal use and/or use of designated contractors and may be used only for the purpose of evaluation as stated in my letter of April 7, 1983."

In his letter dated April 7, 1983, Dr. Reytlblatt authorized a limited usage of the document in question consisting of "review, verification in no more than 3 tests and reproduction in no more than 10 copies exclusively for the NRC domestic use." Dr. Reytlblatt knew that ORNL was NRC's designated contractor and would assist NRC in the review of the document in question. See Enclosures 1, 2 to our letter to you dated March 15, 1985 and the affidavits of Dr. Arndt and Mr. Shomaker, copies of which are attached. Dr. Arndt's notes on the meeting of May 5, 1983 show Dr. Reytlblatt agreed at that meeting that his version of 56.8 (the document in question) could be sent to ORNL. As Mr. Shomaker states in his affidavit, Dr. Reytlblatt agreed on May 5, 1983, that he would make a proprietary claim under 10 CFR 2.790. Arndt and Shomaker agreed that the NRC would not send the Reytlblatt version of 56.8 to ORNL until the proprietary claim and Dr. Reytlblatt's specific permission were received. Both were received in Dr. Reytlblatt's letter of May 23, 1983. Dr. Reytlblatt's proprietary claim for his version of 56.8 has been honored by

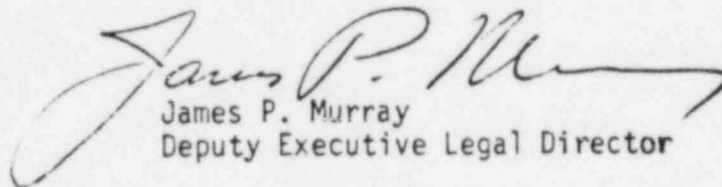
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NRC and we find nothing in his affidavit dated April 16, 1985 or the record to persuade us to reach a contrary view.

Dr. Reytlatt's request for reconsideration is therefore denied. This letter constitutes a final denial of Dr. Reytlatt's claim.

If Dr. Reytlatt is dissatisfied with this action, he may file suit in an appropriate U.S. District Court not later than six months after the date of mailing of this notification.

Sincerely,


James P. Murray
Deputy Executive Legal Director

Attachments as stated

cc: E. Gunter Arndt