

Benson, B.A.
From: John F. Cordes (JFC)
To: WN1:HMS3:CH1:BAB1
Date: Monday, December 12, 1994 10:59 am
Subject: Potential AMS Court Statement -Reply

As I said in my Friday e-mail, I think that the last point sh^{ld} be rephrased a bit to state something like: "We would find the relatively minor Part 20 violation tolerable if unplugging the cap is the only practicable means to reduce a much greater health and safety risk -- i.e., the threat to the structural integrity of the AMS building posed by rising ground water levels."

CC: WLA, JAG, CJP1, sfc, mhf

12/9/94

JRM

Should the AMS judge request to hear from NRC, Bill Axelson will be the agency spokesperson with OGC and RC support. These are the points he will make:

1. THE HYDROSTATIC PRESSURE BEING EXERTED ON THE BUILDING FOUNDATION AT THE AMS FACILITY HAS THE POTENTIAL TO RESULT IN A SIGNIFICANT RADIOLOGICAL SAFETY CONCERN IF THE FOUNDATION SHOULD BUCKLE. THE LEVEL OF GROUND WATER MUST BE CONTROLLED IN A TIMELY WAY TO REDUCE THE POSSIBILITY OF FOUNDATION DAMAGE.
2. WE RECOGNIZE THAT THERE MAY BE SEVERAL SOLUTIONS TO REDUCING THE HYDROSTATIC PRESSURE ON THE FOUNDATION AND WE DO NOT ADVOCATE ANY SPECIFIC SOLUTION. WE DO, HOWEVER, BELIEVE THAT THE MATTER NEEDS PROMPT RESOLUTION.
3. IN THE LONG TERM, WE WOULD EXPECT COMMITMENT FROM AMS TO IMPLEMENT LONG TERM CORRECTIVE ACTIONS THAT WILL INCLUDE DECONTAMINATION OF THE CONTAMINATED SEWAGE PIPING ON THEIR PROPERTY AND THE CONTAMINATION AT THE AMS OUTFALL IN THE SEWER INTERCEPTOR. WE WOULD EXPECT TO CONFIRM THAT COMMITMENT THROUGH AN ORDER TO AMS. WE PLAN ON MEETING WITH AMS WITHIN TWO WEEKS TO DISCUSS FURTHER THEIR LONG TERM CORRECTIVE ACTIONS.

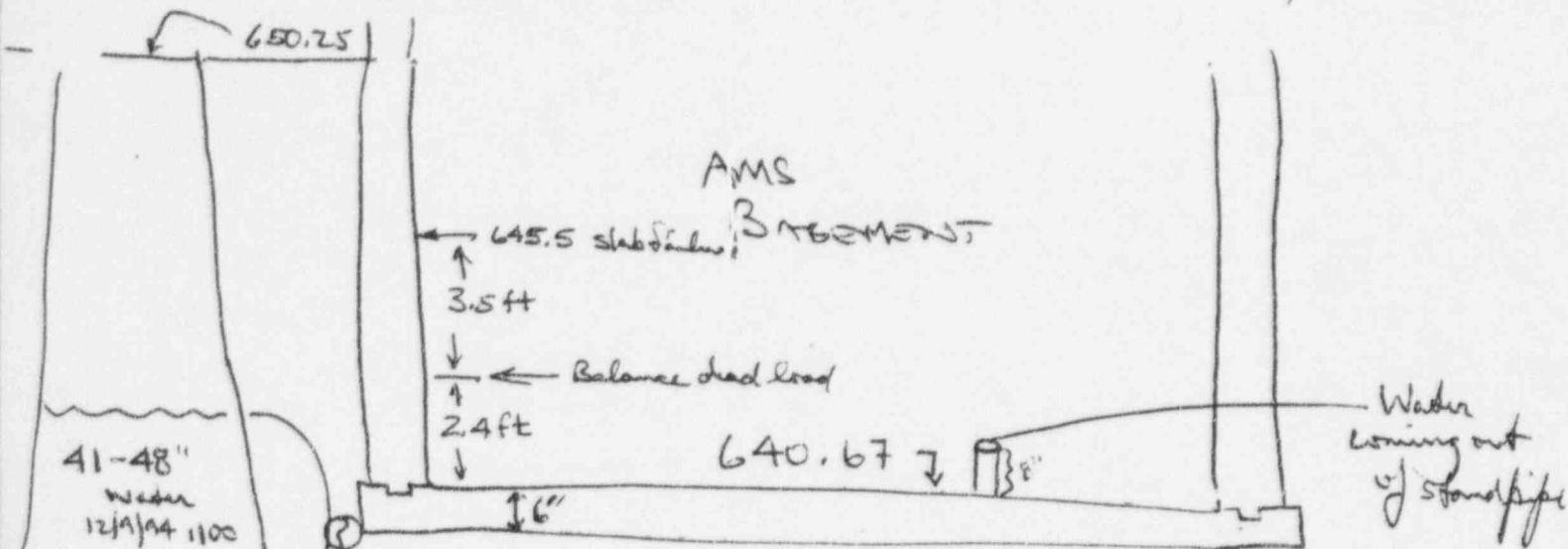
To Address Only if the Judge pursues the issue of pulling the plug:

A. AMS REPORTS TO US THAT THE CONCENTRATION OF COBALT-60 IN THE WATER IN THEIR MANHOLE IS APPROXIMATELY 25 PICOCURIES PER LITER. IT IS LIKELY THAT A FRACTION OF THAT COBALT-60 IS NON-SOLUBLE AND NOT READILY DISPERSIBLE BIOLOGICAL MATERIAL.

B. THE DISCHARGE TO THE SEWERS OF 25 PICOCURIES PER LITER OF COBALT-60 OXIDE THAT IS NON-SOLUBLE AND NOT READILY DISPERSIBLE BIOLOGICAL MATERIAL REPRESENTS A VIOLATION OF OUR REGULATIONS AT 10 CFR 20. GIVEN THE LOW CONCENTRATION OF COBALT-60 IN THIS WASTE WATER, WE WOULD VIEW THIS VIOLATION AS HAVING MINOR RADIOLOGICAL SAFETY SIGNIFICANCE. (IF REQUESTED BY THE JUDGE, WE COULD MAKE THE FOLLOWING STATEMENT:) IF YOU DECIDE TO PERMIT THE DISCHARGE OF THIS CONTAMINATED WATER, WE WOULD NOT PROHIBIT THAT DISCHARGE.

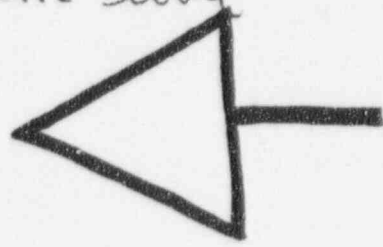
D/25

12/13



- 80 gal. first 30 hours after infiltration began
- 85 gal. next 18 hours
- Raining @ 1200 12/9
Forecast for more rain

Assume 4 feet of water —
Hydrostatic Saturation at least 1 foot above floor level



SE 6" Concrete
and 2" Gravel

Basement Dimensions ~ 30' x 70' Slab

Shower - Looking at it as a beam slab with a dead load

- Looking at it as a plate system

D/36

30 foot 12" SURS 210psi tensile strength

Assume 1ft of head
60psi per foot of head

20 x 20 - 6" Slab 260psi stress in slab [based on 4 feet of head]

tensile strength in concrete from figure ~ 300psi

12" SURS 2.25 feet of head 140 lb/sqft

(NEORSD)	July 5	29 pCi/l	
* (NRC)	Aug 17	33-35 pCi/l	
NEORSD) * (NRC)	Sept 20	< MDA	
(NEORSD)	{	Sept 28	13 pCi/l
		Oct 1	86 pCi/l
		Oct 4	< MDA
		Oct 10	306 pCi/l

Nov 1-3 76 SAMPLES NO CORAL



FILED
IN THE UNITED STATES DISTRICT COURT
1994 DEC 14 PM 3:34 NORTHERN DISTRICT OF OHIO
CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
CLEVELAND
EASTERN DIVISION

NORTHEAST OHIO REGIONAL
SEWER DISTRICT,

Plaintiff,

v.

ADVANCED MEDICAL SYSTEMS, INC.,
et al.,

Defendants.

) CASE NO. 1:94 CV 2555

) JUDGE GEORGE W. WHITE

) **TEMPORARY**
) **RESTRAINING ORDER**
)
)

This cause came on for hearing and was heard on the 13th day of December, 1994, before the Honorable Judge George W. White, upon motion of Plaintiff for a Temporary Restraining Order restraining Defendant Advanced Medical Systems, Inc., and their agents, employees and those persons acting in concert or association with them (collectively "Defendants"), from certain conduct and activity, pending further hearing on Plaintiff's Motion for a Temporary Restraining Order and Application for a Preliminary Injunction.

Upon consideration, the Court finds that Defendant was given notice of Plaintiff's intention to move for a Temporary Restraining Order, through its counsel, and further finds Plaintiff's Motion for a Temporary Restraining Order is well-taken because it clearly appears Plaintiff's Code of Regulations will be violated contrary to Ohio law unless a Temporary Restraining Order issues.

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED, that until January 17, 1995, on which date the Court shall hold a hearing on Plaintiff's Application for a Preliminary Injunction:

2/28


- TOTAL P.03
- (1) Plaintiff is hereby permitted to maintain the existing plugs in the public sewers at or near the connections of the 1020 London Road facility with the London Road Interceptor;
 - (2) At its option, Plaintiff may collect into tanks the discharges of stormwater from the upper portion of the roof above the northern portion of the facility so as to allow Plaintiff to conduct testing of such discharges to determine whether any Cobalt-60 is present.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, this Temporary Restraining Order shall become effective without the filing of a bond.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Clerk of this Court shall deliver sufficient certified copies of this Temporary Restraining Order to Counsel for Plaintiff who, for purposes of serving this Temporary Restraining Order, is appointed by this Court to make service upon Defendants and their counsel.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that service of this Order be made as soon as possible.

Dated: 12/14/94


JUDGE

Advanced Medical Systems, Inc.

121 North Eagle Street • Geneva, Ohio 44041
(216) 466-4671 FAX (216) 466-0186

December 14, 1994

Mr. Jack Grobe
U.S.N.R.C. - Region III
801 Warrenville Road
Lisle, IL 60532-4351

Dear Mr. Grobe:

I have reviewed the draft of the Confirmatory Action letter you sent today. I suggest the following changes:

Rewrite Action #1 to read as follows:

Effective immediately, Advanced Medical Systems will monitor the water level in the manhole on its property and take prompt action to reduce or maintain the water level to allow the foundation drainage system to function as evidenced by lack of water in the basement. Water removed from the manhole on the property shall be tested for compliance with 10CFR 20.2003 which permits only the discharge of soluble material or readily dispersable biological matter in water. Should water begin to intrude into the basement again or weather conditions deteriorate, the NRC will be notified immediately.

The reason for these changes is the level of the floor versus the manhole has not yet been determined. Water has been in the manhole since the latter part of November; however, water did not begin to seep into the basement until the sewer level reached approximately 40" and it rained for three (3) days. Over the last several days, we have pumped the sewer several times in the morning. There is approximately 3-4 feet of water in the lateral; however, the level in the basement is not continuing to rise and water is no longer seeping in. Our engineers feel that as long as it is not raining, water can remain in the lateral. We are continuing to pump the lateral daily. They further feel the majority of the pressure on the drainage system is related to changes in the ground water, not the increase in the water level in the lateral.

I would change the response time from ten (10) calendar days to ten (10) business days, or December 28, 1994.

I would also like to omit the clause "nor does it preclude the NRC from taking enforcement action for violations of NRC requirements that may have prompted the issuance of this letter." This statement is in the third from the last paragraph in the letter. This statement does not add anything to the letter nor am I aware of any violations that have prompted the issuance of this letter.

P/37

1994

Mr. Jack Grobe

-2-

December 14, 1994

Please call me after you have recieved this so that we can discuss the proposed changes.

Sincerely,

A handwritten signature in cursive script, appearing to read "David Cesar".

DAVID CESAR
Treasurer

DC/mz

Advanced Medical Systems, Inc.

121 North Eagle Street • Geneva, Ohio 44041
(216) 486-4871 FAX (216) 486-0186

December 14, 1994

VIA FAX #(708) 515-1259

Mr. Jack Grobe
U.S.N.R.C. - Region III
801 Warrenville Road
Lisle, IL 60532-4351

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The reason for these changes is the level of the floor versus the manhole has not yet been determined. Water has been in the manhole since the latter part of November; however, water did not begin to seep into the basement until the sewer level reached approximately 40" and it rained for three (3) days. Over the last several days, we have pumped the sewer several times in the morning. There is approximately 3-4 feet of water in the lateral; however, the level in the basement is not continuing to rise and water is no longer seeping in. Our engineers feel that as long as it is not raining, water can remain in the lateral. We are continuing to pump the lateral daily. They further feel pressure on the drainage system is related to changes in the ground water, not the majority of the increase in the water level in the lateral.

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Post-It Fax Note 7671		Date 12-14-94	# of Pages 2
To Jack Grobe	From David Cesar		
Co./Dept. USNRC-Region III	Co. AMS		
Phone #	Phone #		
Fax # 708/515-1259	Fax #		

undone by the water intrusion into the basement

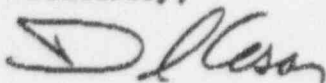
Mr. Jack Grobe

-2-

December 14, 1994

Please call me after you have recieved this so that we can discuss the proposed changes.

Sincerely,

A handwritten signature in dark ink, appearing to read "D. Cesar", written over a horizontal line.

DAVID CESAR
Treasurer

DC/mz



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION III
801 WARRENVILLE ROAD
LISLE, ILLINOIS 60532-4351

December 15, 1994

Advanced Medical Systems, Inc.
ATTN: David Cesar
Treasurer
121 North Eagle Street
Geneva, OH 44041

SUBJECT: CONFIRMATORY ACTION LETTER NO. RIII-94-008

Dear Mr. Cesar:

This refers to the telephone conversations on December 13 and 14, 1994, between Jack Grobe of my staff and you regarding the results of our recent inspection of your facility sent to you on December 6, 1994. That inspection concerned the radiological survey of your sewer piping and radioanalysis of your waste water effluents. During that inspection, we identified one apparent violation concerning your discharge of insoluble cobalt-60.

Since that inspection, the North East Ohio Regional Sewer District has isolated your facility from the sewage treatment system. This has rendered your facility foundation drainage system non-functional allowing the development of hydrostatic pressure on the foundation structure. In addition, the isolation of your facility from the sewage treatment system has resulted in leakage of groundwater into your basement, which has led to a contaminated waste water problem at your facility.

We are concerned about the structural integrity of your facility and the mechanism that you plan to use to deal with contaminated waste water. Based on our conversation with you, we understand that you have committed to complete the following actions:

1. Effective immediately, Advanced Medical Systems will monitor the water level in the manhole on its property and take prompt action to reduce or maintain the water level to allow the foundation drainage system to function as evidenced by the lack of water intrusion into the facility basement. Water removed from the manhole on your property shall be tested for compliance with 10 CFR 20.2003 which permits only the discharge of licensed material that is readily soluble or readily dispersible biological material in water. Should water begin to intrude into the basement, the NRC will be notified immediately.
2. Within ten business days from the date of this letter, you will provide to the NRC your plan to address the radioactively contaminated water that has been removed from the facility manhole and is in the facility basement.

1139

3. Within ten business days from the date of this letter, you will describe your plans and schedules to deal with ground water to assure the structural integrity of the facility and your plans to discharge waste and storm water from your facility without violating 10 CFR 20.2003. These plans should include the isolation and remediation of the radioactively contaminated manhole and sewer line exiting the facility to the London Road interceptor.

Pursuant to Section 182 of the Atomic Energy Act, 42 U.S.C. 2232, you are required to:

- 1) Notify me immediately if your understanding differs from that set forth above;
- 2) Notify me if for any reason you cannot complete the actions within the specified schedule and advise me in writing of your modified schedule in advance of the change; and
- 3) Notify me in writing when you have completed the actions addressed in this Confirmatory Action Letter.

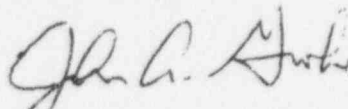
Issuance of this Confirmatory Action Letter does not preclude issuance of an order formalizing the above commitments or requiring other actions on the part of the licensee; nor does it preclude the NRC from taking enforcement action for violations of NRC requirements that may have prompted the issuance of this letter. In addition, failure to take the actions addressed in this Confirmatory Action Letter may result in enforcement action.


The responses directed by this letter are not subject to the clearance procedures of the Office of Management and Budget as required by the Paperwork Reduction Act of 1980, Pub. L. No. 96-511.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter and your response will be placed in the NRC Public Document Room (PDR). To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be placed in the PDR without redaction. However, if you find it necessary to include such

information, you should clearly indicate the specific information that you desire not to be placed in the PDR, and provide the legal basis to support your request for withholding the information from the public.

Sincerely,



 W. L. Axelson, Director
Division of Radiation Safety and
Safeguards

License No. 34-19089-01
Docket No. 030-16055

information, you should clearly indicate the specific information that you desire not to be placed in the PDR, and provide the legal basis to support your request for withholding the information from the public.

Sincerely,

Original

W. L. Axelson, Director
Division of Radiation Safety and
Safeguards

License No. 34-19089-01
Docket No. 030-16055

DOCUMENT NAME: G:\LTRS2LIC\MTLS\030\94316055.L03

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NAME	Grobe:dp*		Berson:tb		DeFayette:RWT		Paperiello*		Goldberg**		Axelson:W
DATE	12/14/94		12/14/94		12/15/94		12/13/94		12/14/94		12/15/94

OFFICIAL RECORD COPY

*'Scout' was approved from
no objection from a structural
engineering perspective*

** Per discussion with
G. J.*

*** per discussion with
Lewy
G. J.*