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rganization, inc.

January 10, 1997

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Ms. Jenny Johansen, Chief  
United States  
Nuclear Regulatory Commission  
Nuclear Materials Safety Branch 3  
Division of Nuclear Materials Safety  
Region I  
475 Allendale Road  
King of Prussia, Pennsylvania 19406-1415

RE: Inspection #030-19705/96-001  
License No. 31-12000-02  
Docket #030-19705

Dear Ms. Johansen:

The following is a response to the referenced inspection and letter of findings for The NDL Organization, Inc.'s 1000 Lower South Street, Peekskill, New York 10566 facility. This letter addresses each of the concerns addressed in the Commission's December 12, 1996 letter in their respective order. The responses are keyed numerically with each item of non-compliance noted during the inspection. A statement of explanation for each item is presented as follows:

- a. Steps which have been taken to correct the violation and to implement the recommendations and the results achieved;
- b. Steps which will be taken to prevent recurrence;
- c. Date when all corrective actions or preventative measures were or will be completed.

*1. 49 CFR 173.421 excepts radioactive materials in certain limited quantities, defined therein, from the specification packaging, shipping paper and certification, marking, and labelling requirements of subpart H, 49 CFR Part 173.*

*49 CFR 173.421-1(a) requires, in part, that a "limited quantity" of radioactive material shipped as excepted from specification packaging, shipping paper and certification, marking and labelling requirements, be certified as being acceptable for transportation by having a notice enclosed in or on the package, included with the packing list, or otherwise forwarded with the package. This notice must include the name of the consignor or consignee and the statement:*

RETURN ORIGINAL TO  
REGION I

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*"This package conforms to the conditions and limitations specified in 49 CFR 173.421 for excepted radioactive material, limited quantity, n.o.s., UN2910."*

*Contrary to the above, on August 15, 1996 and December 5, 1996, the licensee delivered to a carrier for transport 5 and 10 drums of radioactive waste respectively, as a 'limited quantity,' excepted from specification packaging, shipping paper and certification, marking, and labelling requirements, and did not have a notice enclosed in or on the package, included with the packing list, or otherwise forwarded with the package, with the required statement concerning the conformance of the package. Specifically, the licensee has not included the statement: "This package conforms to the conditions and limitations specified in 49 CFR 173.421 for excepted radioactive material limited quantity, n.o.s., UN2910" on any limited quantity shipment.*

a. NDL can appreciate the inspector's interpretation of the DOT regulations, but the company has operated under a differing interpretation of the regulation. We wish to point out that the cited regulation [49 CFR 173.421-1(a)] was in effect only until April 1, 1996. Subsequent to April 1 changes in the requirement were promulgated under the revised 49 CFR 173.421(a). Under the revision, the regulation states that a Class 7 (radioactive) material whose activity per package does not exceed the limits specified in §173.425 and its packaging are excepted from the specification packaging, marking, labelling and, if not a hazardous substance or hazardous waste, the shipping paper and *certification requirements* (italics added) of the subchapter and requirements of the subpart if:

- 1) Each package meets the general design requirements of §173.410;
- 2) The radiation level at any point on the external surface of the package does not exceed 0.005 mSv/hour (0.5 mrem/hour);
- 3) The nonfixed (removable) radioactive surface contamination on the external surface of the package does not exceed the limits specified in §173.443(a);
- 4) The outside of the inner packaging or, if there is no inner packaging, the outside of the packaging itself bears the marking "Radioactive;"
- 5) Except as provided in §173.426, the package does not contain more than 15 grams of uranium-235; and
- 6) The material is otherwise prepared for shipment as specified in accordance with §173.422.

The Commission seems to be in agreement with NDL as to its adherence with subparagraphs 1) through 5), but deviates with the interpretation of subparagraph 6) as it relates to §173.422 (b) "An excepted package of Class 7 (radioactive) material that is classed as Class 7 and is prepared for shipment under the provisions of 173.421, 173.423, 173.424, 173.426, or 173.428 is not subject to the requirements of this subchapter, except..." for sections of this chapter pertaining to

the reporting of incidents and decontamination, when transported by a mode other than air and aircraft.

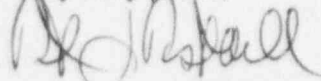
The containers cited in the report were classed as "Class 7" material and fully labelled, marked and identified on shipping papers as such. If it is not the intention of DOT to exclude a limited quantity material that is classed as radioactive from these requirements, we would appreciate a clarification as to what the intent of this paragraph is.

b. Until otherwise notified by the Commission, NDL will place a certification statement on each limited quantity waste container.

c. As of the date of this reponse, this requirement is currently being satisfied.

To the best of my knowledge, all corrective actions and preventative measures relating to the above have been implemented and are currently in effect. If you have any questions, or need additional information, please contact me. Thank you for your consideration.

Very truly yours,

A handwritten signature in dark ink, appearing to read "P. J. Pastorelle", written over a horizontal line.

Peter J. Pastorelle  
President

PJP/mrdc