



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

DCS
PDR

April 15, 1997

IA 97-023

Mr. Kevin R. Herrmann
[Address removed pursuant
to 10 CFR 2.790]

Dear Mr. Herrmann:

This refers to the inspection and investigation conducted on October 8 through December 9, 1996, in response to a radiography event that occurred on October 3, 1996. At the time of the event, you were employed as a radiographer's assistant by Barnett Industrial X-Ray, Inc. (BIX). The event involved an inadvertent and unintended radiation exposure to you when you, without the required personal monitoring devices and without performing the required radiation survey, attempted to remove the source guide tube from an exposure device following a radiographic exposure, and discovered that the source was partially exposed outside the source tube outlet. Our reviews confirmed that your radiation exposure did not exceed regulatory limits. Our findings are documented in NRC Inspection Report No. 030-30691/96-01 dated December 23, 1996.

On January 6, 1997, the NRC conducted a predecisional enforcement conference with representatives of BIX. Based on information developed during the inspection and investigation, as well as information provided during the conference, the NRC has concluded that violations of NRC requirements occurred. These violations involved: (1) failure of a radiographer and a radiographer's assistant to wear personal monitoring devices as required by 10 CFR 34.33(a); (2) failure of a radiographer to provide personal supervision of a radiographer's assistant while the assistant was performing radiographic operations, as required by 10 CFR 34.44; and (3) failure to perform a survey of an exposure device following a radiographic exposure as required by 10 CFR 34.43(b). Further, it is our belief that the radiographer deliberately failed to utilize personal dosimetry and that the radiographer demonstrated careless disregard for the requirement to adequately supervise your activities. These violations identified during our inspection were significant because they represented failures to observe safeguards intended to prevent unnecessary exposures of radiography personnel to radiation. Compliance with these requirements would have prevented this incident from occurring. As a result, on February 24, 1997, the NRC issued a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$4000 to BIX, your former employer. A copy of this action is attached.

Based on the NRC investigation, the NRC concludes that you deliberately failed to wear personal monitoring devices in violation of 10 CFR 30.10 and 10 CFR 34.33(a). However, the NRC has decided not to take formal enforcement action against you based on your level within BIX's organization, your limited experience in the conduct of radiography activities, and the lack of supervision during the event.

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Mr. Kevin R. Herrmann

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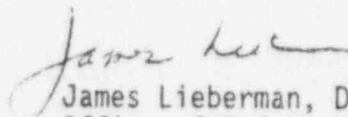
While formal enforcement action is not being taken against you, you should be aware that the NRC's regulations allow the issuance of civil sanctions to be taken directly against unlicensed persons who, through their deliberate misconduct, cause a licensee to be in violation of NRC requirements. Deliberate misconduct includes an intentional act or omission that the person knows constitutes a violation of a requirement, procedure or training instruction. An order may also be issued to an individual to prevent his or her engaging in licensed activities at all NRC licensed facilities. A violation of this regulation as set forth in 10 CFR 30.10, "Deliberate Misconduct" (Enclosure 2), may also lead to criminal prosecution. Similar failures in the future could lead to formal NRC enforcement action against you.

You are not required to respond to this letter. However, if you choose to provide a response, please provide it to me within 30 days at U.S. Nuclear Regulatory Commission, Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas 76011.

In accordance with Section 2.790 of the NRC's "Rules of Practice," Part 2, Title 10, Code of Federal Regulations, records or documents compiled for enforcement purposes are placed in the NRC Public Document Room (PDR). A copy of this letter with your address removed, and your response, if you choose to submit one, will be placed in the PDR (after 45 days unless you provide sufficient basis to withdraw this letter).

If you have any questions or comments, please contact Gary Sanborn, Regional Enforcement Officer, at (817) 860-8222 or (800) 952-9677.

Sincerely,



James Lieberman, Director
Office of Enforcement

Docket No. 030-30691
License No. 35-26953-01

Enclosures: As Stated

cc (w/out Enclosure):
State of Oklahoma

Mr. Kevin R. Herrmann

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Mr. Loyd Barnett
Barnett Industrial X-Ray, Inc.
P.O. Box 1991
Stillwater, Oklahoma 74076

Mr. Kevin R. Herrmann

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