

UNITED STATES
NUCLEAR REGULATORY COMMISSION

In the Matter of

INSTITUTE FOR MEDICAL RESEARCH OF
BENNINGTON
110 Hospital Drive
Bennington, Vermont 05201

}
}
}
}
Docket No. 030-14984
License No. 44-18388-01
EA 85-110

ORDER SUSPENDING LICENSE (EFFECTIVE IMMEDIATELY)

I

Institute for Medical Research of Bennington (the "licensee") is the holder of byproduct material License No. 44-18388-01, which authorizes the licensee to possess millicurie quantities of several isotopes for biochemical research, tissue culture and virological studies. The license, originally issued on March 7, 1979, was renewed on March 17, 1983 with an expiration date of March 31, 1988. The license permits use of material only at the licensee's facility in Bennington, Vermont, and only by, or under the supervision of, individuals authorized by the license.

II

On September 19, 1985, two NRC inspectors were sent to the licensee's facilities in Bennington, Vermont, to conduct a routine NRC inspection of licensed activities. The inspectors identified from a review of user logs and interviews with a licensee's technician two violations of NRC requirements. Specifically, (1) licensed material had been used by individuals not authorized by the license, and (2) quantities of byproduct material in excess of those permitted by the license had been possessed. At the time of the inspection, the licensee's director apparently had no knowledge of these matters. Further, the individuals named on the license were no longer employed by the licensee.

8510310315 851025
IE LIC30
44-18388-01 PDR

These same two violations were previously identified by the NRC during an inspection conducted on July 12, 1984. Since the individuals named on the license were no longer employed by the licensee at that time, NRC, Region I, issued a Confirmatory Action Letter (CAL) on July 18, 1984, which confirmed the licensee's commitments to:

- ° Cease all use of licensed material and place material in storage until the license was amended to add an authorized user who would be present at the facility to supervise the use of such materials.
- ° Promptly file a request for an amendment to the license to add at least one authorized user.
- ° Assure that possession limits are not exceeded.

The results of the recent inspection in September 1985 indicate that the terms of the license and the commitments documented in the CAL have not been satisfied. Specifically, licensed material has again been used by unauthorized individuals, an amendment request was never filed to add the name of an authorized user to the license, and possession limits have been exceeded.

III

The licensee's repeated failure to meet the terms of its license, and to adhere to its commitments in the CAL, demonstrates a significant lack of control over the conduct of licensed activities to assure compliance with NRC requirements. In light of these findings, I have determined pursuant to 2.202(f) that the public health, safety, and interest require that this Order should be issued immediately effective.

IV

Accordingly, pursuant to Sections 81, 161b, 161o, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and Part 30, IT IS HEREBY ORDERED that:

- A. Effective immediately, the licensee's authorization under License No. 44-18388-01 to receive or use byproduct material is suspended. The licensee shall place all licensed material in its possession in secure storage and, with respect to such storage, comply with the provisions of 10 CFR Part 20, "Standards for Protection Against Radiation."
- B. The Licensee show cause as provided in Section V of this Order why the suspension of licensed activities under Item A above should not continue until:

1. A license amendment is submitted to the NRC and approved by the NRC which adds the name of a qualified individual to the license as an authorized user of licensed material;
 2. An explanation is submitted to the Regional Administrator, Region I, as to why the violations (unauthorized use of radioactive material, use of material by unauthorized persons, and the possession of quantities of radioactive material in excess of authorized limits) continued after the July 1984 CAL and a description is submitted of actions taken or planned to improve management control of licensed activities to assure adherence to NRC requirements; and
 3. The Regional Administrator, Region I, approves the resumption of licensed activities in writing on the basis of the licensee's completion of items 1 and 2 above.
- C. The Regional Administrator, Region I, may relax or rescind in writing any of the above provisions upon demonstration of good cause by the licensee.

V

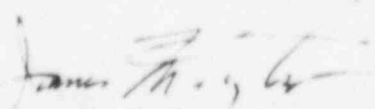
The licensee may show cause why this Order should not have been issued and should be vacated by filing a written answer under oath or affirmation within 25 days of the date of this Order which sets forth the matters of fact and law

on which the licensee relies. Alternatively, the licensee may answer as provided in 10 CFR 2.202(d) by consenting to this Order. Upon the failure of the licensee to answer within the specified time or to request a hearing, this Order shall be final without further proceedings.

The licensee or any other person whose interest is adversely affected by this Order may request a hearing on this Order within 25 days of its issuance. Any request for hearing shall be addressed to the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies of the request shall also be sent to the Executive Legal Director at the same address, and to the Regional Administrator, Region I, 631 Park Avenue, King of Prussia, Pennsylvania 19406. A REQUEST FOR HEARING SHALL NOT STAY THE IMMEDIATE EFFECTIVENESS OF THIS ORDER.

If a hearing is requested, the Commission will issue an Order designating the time and place of hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

FOR THE NUCLEAR REGULATORY COMMISSION


James M. Taylor, Director
Office of Inspection and Enforcement

Dated at Bethesda, Maryland
this 25th day of October 1985

D:IE
J Taylor
10/2/85