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ALJ-85-2

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

ADMINISTRATIVE LAW JUDGE
Ivan W. Smith

'85 DEC 23 A11:59

In the Matter of
REICH GEO-PHYSICAL, INC.
1019 Arlington Drive
Billings, Montana

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OFFICE OF SECRETARY
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License No. 25-18304-01
EA-84-78

Docket No. 30-14821
[ASLBP 85-508-01-OT]

December 20, 1985

SERVED DEC 23 1985

SUPPLEMENT TO INITIAL DECISION

On December 17, 1985, Mr. Keith A. Reich, President of Licensee corporation, orally requested reconsideration of the Initial Decision of December 11, 1985. In a telephone conference with Mr. Reich and Counsel for the Director, Office of Inspection and Enforcement, Mr. Reich explained that he had read the Initial Decision and that he accepts the result. He does not intend to appeal. He stated, however, that, unless he has relief in the terms of paying the civil penalty, the ability of his business to survive will be weakened. He pointed out that his well-logging business usually stops in December and begins again in May of each year and that his income is reduced accordingly. This cycle is corroborated by the utilization records in evidence. Staff Ex. 1 and 2. Also, according to Mr. Reich, the market for his services has been soft. In sum, Mr. Reich sought leave to pay the civil penalty in installments.

Upon inquiry, Mr. Reich acknowledged that he recognizes that, simply by filing an appeal from the Initial Decision, at virtually no

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cost to him, he could defer payment of the penalty and, perhaps, find relief in that fashion. But, as he explained, to file an appeal, when, in fact, he accepts the decision, would not be forthright. He prefers to seek relief in an ethical manner.

Counsel for the Director conferred with her clients and with Mr. Reich. She reported the following agreement:

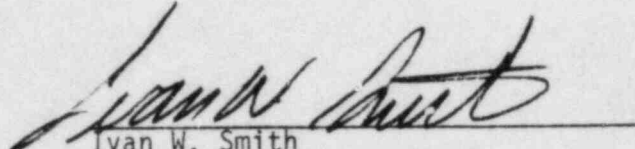
Mr. Reich will sign a promissory note in accordance with Department of Justice and General Accounting Office regulations covering the standards for Federal claims collection. 4 CFR § 101.1, et. seq. In particular, interest will accrue beginning the date of the Initial Decision, December 11, 1985, at the U. S. Treasury tax and loan account rate. The first installment will be due on May 11, 1986 and subsequent installments will be due the eleventh of each month thereafter, for eight months, until paid.

ORDEP

The arrangement is fair to the government, accomplishes the purpose of the civil penalty, and is consistent with the Commission's Enforcement Policy.¹ Therefore, the Order of December 11, 1985 is modified to approve the installment-payment agreement between Licensee

¹Title 10 CFR Part 2, Appendix C. The ability of a licensee to pay a penalty is an appropriate consideration. Putting a licensee out of business should be the result of orders directed toward that end rather than a civil penalty. Id. at V.B. Although the Licensee elected not to
(Footnote Continued)

and the Director, Office of Inspection and Enforcement. It is so
Ordered.


Ivan W. Smith
ADMINISTRATIVE LAW JUDGE

Bethesda, Maryland

December 20, 1985

(Footnote Continued)

defend the enforcement action on the basis of its ability to pay, it seems clear that this small business needs the relief sought. Collection by installments based on the debtor's ability to pay is also consistent with Federal collection standards. 4 CFR § 102.11.