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General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon and Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

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Signed at Washington, DC, this 13th day of June 1997.

Terry Sullivan,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 97-15950 Filed 6-19-97; 8:45 am]

BILLING CODE 4510-27-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Maritime Advisory Committee for Occupational Safety and Health; Notice of Cancellation of Meeting

AGENCY: Occupational Safety and Health Administration (OSHA), U.S. Department of Labor.

ACTION: Maritime Advisory Committee for Occupational Safety and Health (MACOSH); Notice of Cancellation of Meeting.

SUMMARY: Notice is hereby given that the Maritime Advisory Committee for Occupational Safety and Health canceled its meeting of June 25 and 26, 1997 at the Francis Perkins Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C. (OSHA published the Notice of Meeting on May 30, 1997 (62 FR 29376)). After MACOSH reschedules the meeting, OSHA will give notice in the **Federal Register**. MACOSH was established under section 7(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656) to advise the Secretary of Labor on matters relating to occupational safety and health programs, policies, and standards in the maritime industries of the United States.

ADDRESSES: Send written comments in response to this notice to: OSHA, Office of Maritime Standards, Room N-3621, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Phone (202) 219-7234, fax (202) 219-7477.

FOR FURTHER INFORMATION CONTACT:

Mr. John Martonik, Acting Director, Directorate of Safety Standards Programs, OSHA, (202) 219-8061.

Signed at Washington, D.C. this 17th day of June 1997.

Greg Watchman,

Acting Assistant Secretary of Labor.

[FR Doc. 97-16207 Filed 6-19-97; 8:45 am]

BILLING CODE 4510-26-M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Meeting

June 16, 1977.

TIME AND DATE: 3:45 p.m., Thursday, June 5, 1996.

PLACE: Room 6005, 6th Floor, 1730 K Street, N.W., Washington, D.C.

STATUS: Closed [Pursuant to 5 U.S.C. 552b(c)(10)].

MATTERS TO BE CONSIDERED: It was determined by a unanimous vote of the Commissioners present that the Commission consider and act upon the following in closed session:

1. *Secretary of Labor v. Laurel Run Mining Co., et al.*, Docket Nos. WEVA 94-347, et al.

No earlier announcement of the scheduling of this meeting was possible.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, (202) 653-5629/(202) 708-9300 for TDD Relay/1-800-877-8339 for toll free.

Jean H. Ellen,

Chief Docket Clerk.

[FR Doc. 97-16423 Filed 6-18-97; 3:59 pm]

BILLING CODE 6735-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 30-016055]

Advanced Medical Systems, Inc., Issuance of Director's Decision under 10 CFR § 2.206

Notice is hereby given that the Director, Office of Nuclear Material Safety and Safeguards, U. S. Nuclear Regulatory Commission, has acted on a Petition for action under 10 CFR 2.206 dated March 3, 1993, filed by William B. Schatz, Esq., on behalf of the Northeast Ohio Regional Sewer District (Petitioner), as supplemented by letters dated September 13, 1994, October 13, 1994 and April 29, 1996, with regards to NRC Licensee, Advanced Medical Systems, Inc. (AMS)

The Petitioner requested, pursuant to 10 CFR 2.206, that the NRC: (1) Modify AMS' License No. 34-19089-01 to require that AMS assume all costs resulting from the off-site release of cobalt-60 that has been deposited at the

Petitioner's Southerly Wastewater Treatment Center; and (2) order AMS to decontaminate the sewer connecting its London Road facility with the public sewer at London Road, and continue down stream with such decontamination to the extent that sampling indicates is necessary.

By letters dated September 13, 1994, October 13, 1994, and April 29, 1996, the Petitioner filed supplements to the Petition. The September 1994 supplement requested that NRC commence enforcement actions against AMS for violations of 10 CFR 20.401(c)(3) and 10 CFR 20.303(a), based on assertions that the disposal records maintained by AMS are grossly inaccurate, in violation of 10 CFR 20.401(c)(3), and that AMS discharged material to the sewer that was not readily soluble or dispersible in water, in violation of 10 CFR 20.303(a). In addition, the September 1994 supplement requested that the March 3, 1993, Petition be granted immediately insofar as it requested that AMS be held responsible for all costs arising from contamination of the Petitioner's treatment plant and that AMS be required to decontaminate the sewer downstream from the London Road facility. In its October 1994 supplement, the Petitioner requested that the NRC commence an enforcement action against AMS for violation of 10 CFR 20.2003, based on the assertion that AMS had recently discharged cobalt-60 to the sewer that was not soluble or readily dispersible biological material, in violation of that provision. In its April 1996, supplement, the Petitioner requested NRC action on a license requiring AMS to safely and reasonably decontaminate the London Road interceptor (the sewer), or, if the NRC's position is that such action has already been ordered, NRC action requiring AMS to actually complete the decontamination.

For the reasons stated in the "Director's Decision Under 10 CFR 2.206" (DD-97-13), the Director of the Office of Nuclear Material Safety and Safeguards has denied the first request, that NRC require AMS to assume all costs resulting from the offsite contamination from released licensed material within NRC limits. With regard to the request to order AMS to decontaminate the sewer line, as set forth in DD-97-13, NRC has already partially granted the Petition, insofar as NRC has taken action by amending AMS' License to require remediation of the sewer line connecting the London Road Facility with the public sewer at London Road. For the reasons stated in DD-97-13, the Director has denied the

remaining requests in the Petition and its supplements. The complete text of DD-97-13 follows this notice and is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the Local Public Document Room, Perry Public Library, 3735 Main Street, Perry, Ohio 44081.

A copy of this Decision will be filed with the Secretary of the Commission for the Commission's review in accordance with 10 CFR 2.206(c) of the Commission's regulations. As provided by this regulation, this Decision will constitute the final action of the Commission 25 days after the date of issuance unless the Commission, on its own motion, institutes review of the decision within that time.

Dated at Rockville, Maryland, this 13th day of June, 1997.

For the Nuclear Regulatory Commission.

Carl J. Paperiello,

Director Office of Nuclear Material Safety and Safeguards.

Director's Decision under 10 CFR § 2.206

I. Introduction

By letter dated March 3, 1993, addressed to Mr. James Taylor, *former* Executive Director for Operations, U.S. Nuclear Regulatory Commission (NRC), William B. Schatz, Esq., on behalf of the Northeast Ohio Regional Sewer District (District), requested that NRC take action with respect to Advanced Medical Systems, Inc. (AMS), of Cleveland, Ohio, an NRC licensee. The District requested, pursuant to 10 CFR § 2.206, that NRC: (1) Modify AMS License No. 34-19089-01 to require that AMS assume all costs resulting from the off-site release of cobalt-60 that has been deposited at the District's Southerly Wastewater Treatment Center (SWTC); and (2) order AMS to decontaminate the sewer connecting its London Road facility with the public sewer at London Road, and continue downstream with such decontamination to the extent that sampling indicates is necessary.

The District alleges the following bases for its request: (1) Cobalt-60 has been discovered in the ash piles resulting from the incineration of sewage sludge at the District's SWTC; (2) AMS is the only licensee in the District's service area authorized to process cobalt-60 in a loose metallic form consistent with the form present in the ash; (3) AMS is the only entity (except for the former owner of the London Road facility) that has reported discharging cobalt-60 to the sanitary sewer system leading to the SWTC; (4)

NRC documents present ample evidence of cobalt-60 contamination at the London Road facility, including numerous drains inside the building; (5) there are excessive exposure rates in the sewer connecting the building to the public sewer system; (6) this sewer line has been classified as a restricted area, which effectively denies the District access to the manhole for sampling industrial discharges; and (7) the AMS London Road facility is the source of the cobalt-60 at the SWTC.

By letter dated April 2, 1993, the Director, Office of Nuclear Material Safety and Safeguards, NRC, formally acknowledged receipt of the Petition and informed the District that its request was being treated pursuant to 10 CFR § 2.206 of the Commission's regulations. A notice of the receipt of the Petition was published in the **Federal Register** on Tuesday, April 13, 1993 (58 FR 19282). Staff sent a copy of the letter dated April 2, 1993, with a copy of the Petition, to AMS.

By letters dated September 13, 1994, October 13, 1994, and April 29, 1996, the District filed supplements to its March 3, 1993, Petition. The District's September 1994 supplement requested that NRC commence enforcement actions against AMS for violations of 10 CFR § 20.401(c)(3) and 10 CFR § 20.303(a), based on assertions that the disposal records maintained by AMS are grossly inaccurate, in violation of 10 CFR § 20.401(c)(3), and that AMS discharged material to the sewer that was not readily soluble in or dispersible in water, in violation of 10 CFR § 20.303(a). In addition, the September 1994 supplement requested that the March 3, 1993, petition be granted immediately insofar as it requested that AMS be held responsible for all costs arising from contamination of the District's treatment plant and that AMS be required to decontaminate the sewer downstream from the London Road facility. In its October 1994 supplement, the District requested that NRC commence an enforcement action against AMS for violation of 10 CFR § 20.2003, based on the assertion that AMS had recently discharged cobalt-60 to the sewer that was not soluble or readily dispersible biological material, in violation of that provision. In its April 1996 supplement, the District requested NRC action on a license requiring AMS to safely and reasonably decontaminate the London Road interceptor (the sewer), or, if NRC's position is that such action has already been ordered, NRC action requiring AMS to actually complete the decontamination.

Since receipt of the March 3, 1993, Petition, NRC has amended AMS' license such that one of the District's requests has already been partially granted, as set forth below. I have completed my evaluation of the remaining matters raised by the District and have determined that, for the reasons stated below, the other requests in the Petition and its supplements should be denied.

II. Background

NRC issued License No. 34-19089-01 to AMS on November 2, 1979. Picker Corporation had previously owned and operated the licensed operation, facilities, and equipment since 1959. From 1979 to mid-1991, the AMS license authorized the possession of 150,000 curies (5550 terabecquerels) of cobalt-60 in solid form for the purpose of manufacturing sealed sources for distribution to authorized recipients for use in teletherapy units (used at medical facilities for treatment of medical conditions). The AMS license currently limits possession to 150,000 curies (5550 terabecquerels) as solid metal and 135,000 curies (4995 terabecquerels) in sealed sources, for use in installing and servicing teletherapy units, and training; the current license does not authorize manufacture of sealed sources for distribution. The license also authorizes possession of 40,000 curies (1480 terabecquerels) of cesium-137 in sealed sources, and 4040 kilograms of plated depleted uranium shielding, incident to teletherapy and industrial radiography installation, maintenance, and service. The facility that houses the licensed material is located on London Road in Cleveland, Ohio.

The District is responsible for operating three wastewater treatment facilities in and around the Cleveland, Ohio, metropolitan area. The District's SWTC has been operating since 1927 to remove grit and debris from wastewater that the District services. This process involves incineration of sludge, transport of the residual ash in a slurry to settlement and evaporation ponds, and eventual transfer of the dried ash to landfills. The SWTC also incinerates sludge generated at other facilities, including the District's Easterly Plant, which services the area where AMS is located.

In April 1991, NRC identified cobalt-60 at the SWTC in ash piles coincidental to an aerial radiation survey of an unrelated site. In September 1991 and March 1992, at the request of NRC, Oak Ridge Institute for Science and Education (ORISE) performed surveys at the SWTC to determine the extent of the cobalt-60

contamination at the facility. The results of the ORISE surveys are reported in *Radiological Characterization Survey for Selected Outdoor Areas, Northeast Ohio Regional Sewer District, Southerly Wastewater Plant, Cleveland, Ohio*, Final Report, August 1992 (hereafter referred to as "ORISE report"). The ORISE report indicated that there were elevated direct radiation readings that were caused by cobalt-60 contamination, with elevated concentrations in soil and sediment samples. Based on this ORISE report and information collected and examined by NRC staff, NRC estimated that a total activity of 414 millicuries (15.3 gigabecquerels) of cobalt-60 existed at the SWTC in 1992.

Since the District needs to transfer the dried ash from the evaporation ponds to continue operations, NRC approved the site remediation strategy for ash removal, and had ORISE perform an independent survey to evaluate the radiological status of the remediated area. The District performed a radiological characterization of the facility to better determine the amount of cobalt-60 that is actually present on the SWTC site; the District's consultant estimated the quantity of cobalt-60 in the North Fill Area, as of 1993, to be about 443 millicuries (16.4 gigabecquerels).

As discussed below, NRC has evaluated the District's concerns and bases for its requests for NRC action. Although NRC has amended AMS' license to require remediation of the interceptor sewer line operated by the District in the vicinity of the connecting line from the AMS facility, which partially grants one of the District's requests, the District's remaining requests are denied for the reasons discussed below.

III. Discussion

A. Timing and Source of Contamination Identified at the SWTC

In 1991, cobalt-60 was discovered in the North Fill Area.¹ The staff's review of the history of the SWTC revealed that, after renovation of the incinerators between 1975 and 1978, the incinerators came back on line in November 1978, and the current ponds were put into use for the first time. The ponds were then cleaned for the first time from December

¹ Significant levels of cobalt-60 requiring remediation were discovered in the North Fill Area, in the existing In-Place Ash section of the South Fill Area, and in the northern section of the South Fill Area. Only the North Fill Area contamination can be dated with any degree of certainty, although AMS records indicate that 1989 was the last year AMS discharged cobalt-60 directly into the sanitary sewer system.

1982 to March 1983. The District removed the ash from the evaporation ponds and placed it in the North Fill Area, which was then landscaped. This was the only time the North Fill Area was used for ash disposal. Accordingly, the cobalt-60 entered the District's system and was deposited at SWTC between late 1978 (when the ponds were first used) and December 1982 (when the ponds were first cleaned and the ash placed in the North Fill Area). See Memorandum for Carl J. Paperiello, former Deputy Regional Administrator, NRC Region III, from Loren J. Hueter, Radiation Specialist, Division of Nuclear Material Safety, NRC Region III, on the subject of "Report on Trip to General Chemical Corporation (Non-licensee), 5000 Warner Road, Cleveland, Ohio, and to Northeast Ohio Regional Sewer District, 6000 Canal Road, Cleveland, Ohio," (Docket No. 030-18276; License No. 34-17726-02) dated June 13, 1991. The staff's conclusion as to when cobalt-60 contamination entered the sanitary sewer system is supported by the District's letter, dated September 13, 1994, which stated that the earliest possible date that the cobalt-60 could have been discharged into the sanitary sewer was not more than a week or two before the opening of lagoons in October 1978.

In an attempt to determine all possible contributors of cobalt-60 contamination to the SWTC, NRC conducted a file review of all licenses issued since 1975, active and terminated, for activities at facilities in the zip code areas serviced by the District. NRC contacted existing and previous licensees for additional information. The U.S. Department of Energy was also contacted to determine if any of its operations in the Cleveland metropolitan area could have contributed to the cobalt-60 contamination at the SWTC. Although other cobalt-60 users were found in the NRC's file search, it was concluded that no facility, other than AMS' facility at 1020 London Road, Cleveland, Ohio, was authorized to possess the quantities of unsealed cobalt-60 that could have contributed to the levels of cobalt-60 contamination found at the SWTC. Memorandum from Roy Caniano, Chief, Materials Inspection Branch, Division of Radiological Safety & Safeguards (DRSS), Region III, to William L. Axelson, Director, DRSS, dated November 7, 1994 (hereafter "Caniano memo").

Given the information as to the timing of the disposals into the sewer system that caused the cobalt-60 contamination at the SWTC, the staff included Picker, which previously used the facility

under NRC license, in its review and inspection, although the District did not seek action against Picker. Current and former Picker employees, as noted in Inspection Report No. 030-16055/93003 (Section 3.C), issued November 7, 1994, stated that liquid radioactive waste was routinely discharged from the London Road facility. They stated, however, that the 1 curie (37 gigabecquerels) per year annual gross quantity disposal limit (10 CFR § 20.303) was never exceeded during their respective tenures. Based on the information gathered during the inspection, it is highly likely that Picker Corporation discharged cobalt-60 into the sanitary sewerage system every year that it operated the London road facility, including the 1978 and 1979 time period of interest. As for AMS, its records indicate that a total of 209 millicuries (7.73 gigabecquerels) of unsealed cobalt-60 was disposed of into the sanitary sewerage system during the period 1980 to 1989. Caniano memo at 3. AMS records indicate that 1989 was the last year that cobalt-60 was discharged directly into the sanitary sewerage system. NRC Inspection Report No. 030-16055/93003(DRSS) at 7, issued November 7, 1994. AMS records also specifically list releases during the 1980-82 time frame. Inspection Report No. 030-16055/93002 at 17, issued August 2, 1993. The information gathered by the staff indicates, therefore, that cobalt-60 was likely released from the London Road facility during the 1979-82 period of interest by both Picker and AMS.

AMS has recorded discharging cobalt-60 to the sanitary sewer system that eventually leads to SWTC, as described above. AMS records indicate, however, that it had been discharging cobalt-60 in accordance with the quantities and concentrations authorized by the then-applicable regulations and license. NRC's inspection and review of records have not revealed any documentation at AMS or other evidence that would indicate discharges in excess of authorized limits.

B. Request for NRC Action To Require AMS To Assume the Cost Resulting From Offsite Release of Cobalt-60

The staff has carefully considered the action the District has requested and the bases stated by the District for its request. In addition, the staff has evaluated the results of its inspections and all available information related to the District's requests. None of the available information, individually or taken together, demonstrates that AMS violated NRC regulatory limits or other requirements related to the discharge of cobalt-60 into the sanitary sewer system.

In a proceeding involving the decommissioning of the Yankee Nuclear Power Station near Rowe, Massachusetts, the Commission stated that it had no authority to grant an intervenor's request for compensation similar to the District's. Yankee Atomic Electric Co. (Yankee Nuclear Power Station), CLI-96-7, 43 NRC 235 (1996). In the Yankee Atomic proceeding, the licensee had initiated substantial decommissioning of its facility through a "Component Removal Project" (CRP) under a new Commission policy interpreting the decommissioning rule (10 CFR § 50.82) and had removed and disposed of many radioactive components through the CRP. The intervenors succeeded in challenging the Commission policy, which had allowed the licensee to initiate the CRP without an opportunity for a hearing. *CAN v. NRC*, 59 F.3d 294 (1st Cir. 1995). As relief for the failure to offer an opportunity for a hearing, and based on their assertion that the CRP had caused workers and the public to receive doses far above those as low as reasonably achievable, the intervenors requested the Commission to require the licensee to establish a fund for the treatment of cancers caused by the doses resulting from the CRP. *Yankee Atomic*, CLI 96-7 at 268. In rejecting the intervenors' arguments, the Commission held that "no statute or regulation grants the Commission authority to require the Licensee to pay (in effect) compensatory damages to private individuals." *Id.* at 269.

The District's request for compensation from AMS for costs resulting from offsite releases of cobalt-60 from the London Road facility is not materially different from the Yankee Atomic intervenors' request for compensation. No statute authorizes the NRC to require any licensee to pay such compensatory damages, especially in a case in which the releases that resulted in the third party's damages were within applicable NRC limits.

The District, in addition to filing its Petition with NRC, instituted a court action against AMS and other defendants for tort remedies, including property damage and remediation costs, resulting from the discharge of cobalt-60 into the District's system. The action, which was pending before the United States District Court for the Northern District of Ohio, Eastern Division (Case No. 1:94 CV 2555), has been settled. Letter dated January 2, 1997, from L. K. English, Esq., Northeast Ohio Regional Sewer District, to J. Madera, Division of Nuclear Material Safeguards, NRC. A court of competent jurisdiction, and not NRC, is the proper forum for the District

to seek compensatory damages from AMS. Accordingly, the District's request for NRC action to require AMS to assume the costs resulting from the release of cobalt-60 is denied.

C. Request To Require AMS to Decontaminate the Sewer Connecting Its London Road Facility With the Public Sewer at London Road and Continue Downstream to the Extent AMS/NRC Sampling Indicates Is Necessary

By letter dated April 29, 1996, the District supplemented its original Petition with a request that AMS be required to "safely and reasonably" decontaminate the London Road interceptor. In addition, the District requested that NRC take action to have AMS complete the decontamination of the interceptor if NRC believed that it had already ordered AMS to take action to decontaminate the interceptor. The indicated sewer connection that was identified as having excessive exposure rates is on AMS property. NRC did issue a Notice of Violation (NOV) for AMS' violation of 10 CFR § 20.105, in that the exposure rates in the accessible sewer line on the AMS facility were excessive for an unrestricted area. NOV issued to AMS, License No. 34-19089-01, dated May 5, 1988, resulting from a special safety inspection conducted on April 13, 1988 (NRC Inspection Report No. 16055/88001 (DRSS)). However, the manhole controlling access to the sewer connection was designated a restricted area; the sewer cover on the AMS property was secured with a lock and bar; and the sewer connection area was partially decontaminated, reducing the contamination and exposure rate levels. Letter from T. J. Hebert, Chairman, Radioisotope Committee, AMS, to R. E. Burgin, Senior Radiation Specialist, NRC Region III, dated May 23, 1988. These facts were confirmed by Oak Ridge Associated Universities, contracted by NRC to perform a radiological survey to determine the then current conditions at the AMS facility. See Oak Ridge Associated Universities Report *Radiation Survey of the Advanced Medical Systems, Inc., London Road Facility, Cleveland, Ohio*, Final Report at 20 (April 1989). The exposure rates are no longer considered excessive as a result of the decontamination performed by AMS and the designation of the manhole as a restricted area. Moreover, in 1995, AMS permanently sealed the lateral from the old manhole to the sewer line. AMS also removed most of the original foundation underdrain system and replaced it with a new, clean system. AMS is currently required to test the groundwater pumped from the new

foundation underdrain system, to ensure compliance with 10 CFR § 20.2003.

The NRC has taken action by issuing Amendment No. 32 to AMS' license, dated March 17, 1995, in which the NRC, through Condition 19.F., required AMS to remediate the London Road interceptor in the vicinity of the abandoned lateral, as described in an AMS letter proposing action to remediate contaminated piping. See "Action Plan for the London Road Facility," at 2 (Jan. 27, 1996). License Condition 19 required that remediation of the interceptor be completed within 90 days (i.e., by June 15, 1995). In Amendment No. 35 to AMS' license, dated June 16, 1995, NRC required AMS to initiate remediation activities no later than July 8, 1995, and to notify NRC no later than July 14, 1995, to confirm initiation of the remediation of the interceptor. Amendment No. 35, however, deleted the June 15, 1995, date for completion of remediation of the interceptor imposed by Amendment No. 32.

By a letter dated July 12, 1995, AMS informed NRC that it would not start the remediation of the interceptor until July 29, 1995, and did not provide an estimated completion date for the remediation, as AMS further informed NRC that it needed the District's approval to access the interceptor. Letter from R. Meschter, Radiation Safety Officer (RSO), AMS, to J. Caldwell, NRC, dated July 12, 1995. By a letter dated July 19, 1995, AMS informed NRC that, for the same reasons given in the July 12, 1995, letter, it would not initiate remediation until August 11, 1995. Letter from R. Meschter, RSO, AMS, to J. Caldwell, NRC, dated July 19, 1995. At that time, AMS and the District still had not agreed on arrangements for entry and evaluation of the interceptor.

In a letter dated January 2, 1997, from L. K. English, Esq., Northeast Ohio Regional Sewer District, to J. Madera, NRC, the District forwarded a copy of a settlement agreement between the District and AMS regarding their court litigation. The settlement indicates that AMS agreed, *inter alia*, to pay the District a fixed sum, and the District agreed to allow re-connection of the AMS facility to the London Road interceptor after AMS' taking certain actions pertaining to conditions of the facility, and to design and construction of the connection. The part of the agreement concerning re-connection provides an alternative to use the present manhole located in London Road, provided that the plans include decontamination of the interceptor, at AMS' cost, before such use. The

agreement specifies conditions and procedures under which AMS may plan to use the present manhole in the interceptor. In a meeting with NRC and AMS on February 10, 1997, AMS indicated that it was its intention to reconnect. Official Transcript of Proceedings: "Public Meeting with Advanced Medical Systems, Inc.," pp. 50-51 (Feb. 10, 1997). AMS stated it will probably take from nine months to a year and a half for re-connection to actually happen. *Id.* at 51. In summary, insofar as Amendments No. 32 and 35 require AMS to remediate the sewer connecting its London Road facility with the public sewer, this request of the District has been partially granted. Although access to the interceptor is now controlled, License Condition 19.F. requires AMS to remediate the interceptor. The staff intends to pursue this matter in the near future. It is the staff's intent that the access concerns be resolved promptly, so that remediation may begin and be completed as soon as practical.

D. Other Issues Raised in Supplements to Petition

By letters dated September 13, 1994, and October 13, 1994, the District supplemented its original Petition with a request that NRC commence an appropriate enforcement action against AMS for the maintenance of grossly inaccurate records of disposal of radioactive material from 1978 to 1993, in violation of 10 CFR § 20.401(b)(3) (in effect through December 31, 1993). The District also asserted that AMS had disposed of cobalt-60 that was not "readily soluble or dispersible in water," in violation of 10 CFR § 20.303 (in effect through December 31, 1993), and had more recently discharged cobalt-60 which was not "readily soluble or dispersible biological material," in violation of 10 CFR § 20.2003 (in effect on January 1, 1994, and thereafter).

The staff has conducted numerous recent inspections at the London Road facility to address the District's concerns over cobalt-60 discharges into the sanitary sewerage system. On March 15, 1995, NRC issued a Notice of Violation to AMS for failures to: (1) Evaluate the quantity of cobalt-60 released to the sewer system resulting from facility floods and certain decontamination activities; and (2) remove non-suspendible solids by the use of a cloth filter, as required by AMS' license conditions. The background relating to unmonitored releases resulting from facility floods and certain decontamination activities is set forth below.

The information as to when the unmonitored releases occurred came from current and former Picker and AMS employees and identified several occasions in the late 1960s and the mid- to late-1980s when the basement was flooded, resulting in backflow into the sewer system. The available information indicated that not all these occurrences were evaluated to identify the amount of radioactivity that may have been released. Inspection Report No. 030-16055/93003, at 16-19. Based on the extensive information provided by the interviewees, the staff concluded that it was unlikely that the cumulative total quantity of cobalt-60 released during these unmonitored releases exceeded a few hundred millicuries. *Id.*

As to the filtering of the waste water pumped from holding tanks in the Waste Hold-Up Tank room, the information gathered from the interviewees strongly indicated that the filter was not always in place from the mid-1970s through the mid-1980s, thus raising the potential for cobalt-60 pellets to have been discharged through this route into the sewer system. *Id.* at 14.

The NRC has already taken enforcement action for the failures to: (1) Evaluate and report certain releases into the sewer system as a result of facility floods or decontamination activities that likely included cobalt-60; and (2) ensure that waste water in the hold-up tanks was passed through filters that should have captured any cobalt-60 pellets before the release of the water to the sewer system. The staff does not believe that further enforcement action for the matters identified in the September 1994 supplement is warranted.

Regarding the October 1994 supplement's request for enforcement action for violation of 10 CFR § 20.2003, the staff has not found evidence, based on NRC interviews and review of records, that AMS intentionally disposed of cobalt-60 into the facility's drains leading to the District's sanitary sewerage system since May 1989. The AMS records contain no discharge log entries after this date. Furthermore, AMS has not generated liquid radioactive waste from manufacturing operations in several years, and has no plans to do so in the future, because of termination of source manufacturing operations. See Inspection Report No. 030-16055/93002. However, both the District and the staff performed sampling (post January 1, 1994, the effective date of revision of 10 CFR Part 20) that identified cobalt-60 at the point of discharge of the sanitary sewerage piping from the London Road facility into the District's sewer line. See the

District's supplement to its Petition, dated October 13, 1994, and Inspection Report

No. 030-16055/94003, issued on December 6, 1994. The presence of the cobalt-60 appears to be a result of plate-out of cobalt-60 onto the walls of the piping leading from the London Road facility. The staff had characterized the results of its sampling as indicating an apparent violation of 10 CFR § 20.2003. *Id.*

The sampling performed by the District and subsequent sampling performed by the staff in early 1995 indicated that some or all the cobalt-60 detected might be "soluble," as that term is defined in NRC Information Notice No. 94-07, dated January 28, 1994. The uncertainty as to the solubility of the cobalt-60 prompted the staff to begin preparations for a solubility analysis of the sample taken on August 17, 1994. In accordance with Region III policy, those samples had been transferred back to the District, on whose property the samples had been taken. Because of further analyses the District had performed on the samples, the samples no longer existed in their original form; therefore further solubility analyses could not be performed. Further representative samples of the water at this point in the waste stream could not be taken because of the District's plugging of the pipe. In view of the inability of the staff to determine that the cobalt-60 in the sampled water was, in fact, insoluble, there was an insufficient basis to cite AMS for a violation of 10 CFR § 20.2003. Furthermore, there is not now a significant potential for discharge of cobalt-60 from the London Road facility to the District's system because: (1) old piping connecting the facility to the District's lines has been plugged; (2) the District has not permitted AMS to connect new clean piping installed by AMS to the District's lines; and (3) AMS collects and treats all water used on the site and holds it in tanks before it is determined not to contain insoluble cobalt-60.

The staff believes that the vast majority of cobalt-60 inventory and activity discharged into the District's sanitary sewerage system was dispersible. It can be expected that a small amount of readily dispersible material would plate-out onto the sewer system pipes over the long history of cobalt-60 discharges by Picker and AMS. Staff concludes that the fact that a small amount of cobalt-60 built up over time in sewer pipes leading from the AMS facility, by itself, does not support the District's assertion that a

discharge in violation of 10 CFR § 20.303 or 10 CFR § 20.2003 occurred.

IV. Conclusion

For the reasons discussed above, no basis exists for taking any action, in addition to the action described above, in response to the requests in the Petition and its supplements. Accordingly, no further action pursuant to 10 CFR § 2.206 is being taken in this matter.

As provided by 10 CFR § 2.206(c), a copy of this Decision will be filed with the Secretary of the Commission for the Commission's review. The Decision will become the final action of the Commission twenty-five (25) days after issuance unless the Commission on its own motion institutes review of the Decision within that time.

Dated at Rockville, Maryland, this 13th day of June, 1997.

For the Nuclear Regulatory Commission.

Carl J. Paperiello,

Director Office of Nuclear Material Safety and Safeguards

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NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-250, 50-251, 50-335, and 50-389, License Nos. DPR-31, DPR-41, DPR-67, and NPF-16]

Florida Power & Light Company, Turkey Point, Units 3 and 4, and St. Lucie, Units 1 and 2; Receipt of Petition for Director's Decision Under 10 CFR 2.206

Notice is hereby given that by Petition dated April 23, 1997, as supplemented May 11 and May 17, 1997, Thomas J. Saporito, Jr., on behalf of himself and the National Litigation Consultants (Petitioners) has requested, pursuant to Section 2.206 of Title 10 of the Code of Federal Regulations (10 CFR 2.206), that the U.S. Nuclear Regulatory Commission (Commission or NRC) take action with regard to operations at the Florida Power & Light Company's (FPL or licensee) Turkey Point Nuclear Station, Units 3 and 4, and St. Lucie Nuclear Station, Units 1 and 2.

The Petitioners request the Commission (1) modify, suspend, or revoke FPL's operating licenses for these facilities until FPL can sufficiently demonstrate that employees at the FPL nuclear facilities are exposed to a work environment that encourages employees to freely raise safety concerns directly to the NRC without being required to first identify safety concerns to the licensee; (2) take escalated enforcement action

because of discriminatory practices of the licensee in violation of 10 CFR 50.7 and/or other NRC regulations, and that the enforcement action be retroactive to the initial occurrence of the violation by the licensee; (3) conduct a public hearing through the Atomic Safety and Licensing Board and permit Petitioners leave to intervene to perfect an evidentiary record in consideration of whether the licensee has violated NRC requirements and/or regulations; (4) require the licensee to post a written notice alongside each NRC Form 3 currently posted at the licensee's nuclear facilities that alerts employees that they can directly contact the NRC about safety concerns without first identifying the safety concerns to the licensee; (5) require the licensee to provide a copy of the posted communications to all employees and insure that all employees are made aware of those communications through the licensee's General Employee Training Program; and (6) require the licensee to provide the NRC with written documents authorized by licensee officers under affirmation that the requirements described in items (4) and (5) have been fully complied with.

In the supplement of May 11, 1997, the imposition of a civil penalty in the amount of \$100,000 against each of three former FPL managers is requested and that the NRC refer the matter of the conduct of these managers to the Department of Justice for consideration of invoking criminal proceedings.

In the supplement of May 17, 1997, the Petitioners requested imposition of a civil penalty in the amount of \$100,000 against each of six FPL employees and restriction of these employees' licensed activities and revocation of their unescorted access to nuclear facilities; the imposition of a civil penalty in the amount of \$100,000 against the International Brotherhood of Electrical Workers (IBEW), that the IBEW be required to inform its members that they have a right to report safety concerns directly to the NRC, and that the IBEW encourages such action at the discretion of its members; and the imposition of a civil penalty in the amount of \$100,000 against two agents or representatives of the licensee. The Petitioners also requested investigations of "willful falsification" of a company record and the cause of "transcripts found missing" in a Department of Labor (DOL) proceeding, and the referral of the matter of the conduct of the eight individuals and entities to the Department of Justice for consideration of invoking criminal proceedings. Finally, it was requested that the NRC conduct an interview with the