



Northeast Ohio Regional Sewer District

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**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

August 2, 1993

Mr. James Taylor
Executive Director for Operations
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Re: Request for action pursuant to 10 CFR 2.206

Dear Mr. Taylor:

The Northeast Ohio Regional Sewer District ("District") Southerly Wastewater Treatment Center has been contaminated by disposal of Cobalt-60 into the sanitary sewer system. The characterization and remediation of this contamination is ongoing and will cost the District, at a minimum, in excess of one million dollars. The remediation costs could rise into the billions of dollars if off-site disposal is required.

Although the NRC has been cooperative in this remediation effort, the Agency has consistently stated that the costs must be absorbed by the District and its ratepayers, despite the District's innocence in this matter. Chairman Ivan Selin recently stated that the NRC is completely powerless to seek cost recovery from the source of this material regardless of the degree of culpability of the licensee. Mr. Selin further stated that the victim in an off-site contamination case such as the Southerly Treatment Center must rely on state-tort law to recover costs from the Licensee. Unfortunately for the victim, tort law will only provide an adequate remedy if a judgment can be obtained against a licensee with the financial resources to pay the judgment. In many situations, the judgment in contamination cases may force the licensee into bankruptcy leaving the victim to cover the remediation costs plus the additional cost of the legal action. The NRC may in such cases be left with an abandoned, contaminated facility.

In addition to requiring financial assurance for site decommissioning, the Atomic Energy Act, in 42 U.S.C. Section 2210,

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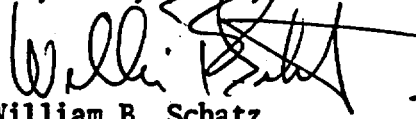
permits the NRC to require financial protection to cover public liability claims as a license condition of most licensees. The District has been informed by the NRC, however, that such financial protection has never been required of a licensee other than in the nuclear power industry, where it is mandatory. As a result of this NRC policy, publicly owned treatment works across the nation, as well as other potential victims, may find themselves in a position similar to that of the District and its ratepayers. In the event of an abandoned, contaminated facility, the impact on a municipality could be devastating.

The District therefore requests, pursuant to 10 CFR 2.206, that the NRC require financial protection, available in the form of insurance, of certain of its materials licensees. The amount of such financial protection could vary based upon the risk to the public posed by the licensee. The District specifically requests that adequate financial assurance to cover public liability be required of Advanced Medical Systems, Inc. due to the large volume of evidence indicating prior discharge of Cobalt-60 to the sanitary sewer, and due to the hundreds of curies of loose Cobalt-60 that remain in the London Road facility.

In addition to requiring adequate financial protection, the District also requests that the NRC license of all generators of radiological waste located within Cuyahoga County and Summit County, Ohio, be amended to require that licensees provide not less than 24 hours advance notice to the appropriate sewage treatment plant prior to releasing radioactive material to the sanitary sewer. In a separate petition for rulemaking pursuant to 10 CFR 2.802, the District is requesting that 10 CFR 20.303 (and 10 CFR 20.2003) be revised to require the same notification provision in all licenses issued by the NRC.

Your prompt response to this petition would be appreciated as this is a matter of great concern to the District.

Very truly yours,


William B. Schatz
General Counsel

WBS/ydm

cc: Richard Bangart
Philip Olson
John Martin
Ken Kirk
Senator Glenn
Senator Metzenbaum
Representative Hoke
Representative Stokes
Erwin Odeal
Thomas Lenhart
Barry Koh
Law Director, City of Cleveland