

May 28, 1997

Dr. Charles V. Shank
[]
University of California
Lawrence Berkeley National Laboratory
One Cyclotron Road
Berkeley, CA 94720

Subject: Noncompliance Report NTS-SAN-LBL-EHS-1997-0001

Dear Dr. Shank:

This letter addresses the Department of Energy's (DOE) evaluation of Lawrence Berkeley National Laboratory's (LBNL) report of a potential noncompliance with the requirements of 10 CFR 835. This potential noncompliance involved the dismissal of the site As Low As Reasonably Achievable (ALARA) Committee in January 1996. This action was contrary to the commitments made in the Lawrence Berkeley Radiation Protection Program (RPP). The matter was initially reported to DOE in an anonymous complaint to the Oakland Operations Office and was placed into the Noncompliance Tracking System by LBNL on March 24, 1997.

The purpose of the ALARA Committee was to advise LBNL's management on all matters pertaining to radiation safety and health. Further, it was responsible for the review and the recommendation of approval of all radiation safety policies, as well as guidance for successfully carrying out these programs.

On March 31, 1997, the Office of Enforcement and Investigation sent an inquiry to LBNL to elicit the facts and circumstances surrounding the matter. LBNL provided a response by letter dated April 25, 1997. In the response, LBNL did not contest the fact that the original ALARA Committee was disbanded in January 1996. However, the letter stated that the LBNL's RPP was being revised to substitute a management committee called the Radiation Safety Committee for the dismissed ALARA Committee. It stated that the work of the new committee was instituted in January 1997.

Based on our evaluation, we have concluded that a noncompliance with 10 CFR 835.101 occurred. While the overall impact on safety of this particular occurrence itself may not be high, DOE must be able to rely on its contractors to perform work in accordance with the commitments each contractor has made. It is of particular concern that this noncompliance was brought to the attention of DOE by means other than through self-assessments.

DOE recognizes that LBNL has shown, through its revision to the RPP, that it

understands the management implications of its actions. Further, in its corrective actions, LBNL has provided a reasonable approach to correct the identified noncompliance. Based on this understanding and commitment, the exercise of discretion not to undertake an enforcement action is warranted at this time. DOE will, however, closely scrutinize future LBNL activities to assure that management continues to strictly adhere to its safety commitments.

If you would like to discuss this matter further, please contact Steven Zobel of my staff at (301) 903-2615.

Sincerely,

R. Keith Christopher
Director
Office of Enforcement and Investigation