

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

DOCKETED
USNRC

'00 APR 11 P5:40

ATOMIC SAFETY AND LICENSING BOARD PANEL

OFFICE OF THE
GENERAL COUNSEL
ADJUDICATIVE
SERVICES

**Before Administrative Judges:
Alan S. Rosenthal, Presiding Officer
Dr. Richard F. Cole, Special Assistant**

In the Matter of

Docket No. 40-9027-MLA

**CABOT PERFORMANCE MATERIALS,
Reading, Pennsylvania**

Re: Site Decommissioning Plan

**LICENSEE'S MOTION FOR
EXTENSION OF TIME TO RESPOND TO THE REQUEST FOR A HEARING OF
REDEVELOPMENT AUTHORITY OF THE CITY OF READING
AND CITY OF READING**

Cabot Performance Materials, the Licensee, moves for an extension of time for the filing of its Answer to the Request for Hearing filed by the Redevelopment Authority of the City of Reading (Redevelopment Authority) and the City of Reading (City). By Memorandum and Order dated January 18, 2000, the Presiding Officer granted Licensee's fifth motion for extension of time and extended the deadline for submittal of Licensee's Answers to the Hearing Requests filed by the Redevelopment Authority and the City, and by Jobert Inc., and Metals Trucking, Inc., until April 3, 2000.^{1/} In that Memorandum and Order the Presiding Officer directed that any further

^{1/} See Licensee's Fifth Unopposed Motion for Additional Extension of Time to Respond to Requests for a Hearing of (1) Redevelopment Authority of the City of Reading and City of Reading and (2) Jobert Inc. and Metals Trucking, Inc. (January 12, 2000).

Template = SECY-041

SECY-02

extension motion should set forth with particularity the reasons that additional time is required. The following information is being provided in response to that direction.^{2/}

Since the Presiding Officer's last Memorandum and Order, the Redevelopment Authority has exercised its power of eminent domain over the property which is the subject of this proceeding, condemning the property in accordance with Pennsylvania State law as more fully described in the attached Declaration of Taking. In addition, those information gathering efforts necessary for settlement among Licensee, the Redevelopment Authority and the City are now complete. This process consumed a significant amount of time because the site has held multiple prior owners/operators over the years and a number of regulated substances have been used on the premises. Before the Redevelopment Authority was able to condemn the property, considerable characterization and investigation of site conditions and contaminants was necessary.

The result of these, and other, efforts is that Licensee, the Redevelopment Authority and the City have now reached an oral agreement on most of the basic principles of a full and amicable settlement. Such principles include those relating to future ownership and control of the property, allocation of potential liability and indemnification, and future disposition of the radioactive materials on site. One of the terms that has been agreed to (subject to full agreement on all terms and completion of a written settlement agreement) is the withdrawal of the Redevelopment Authority and City's Hearing Request and the submittal of a joint request that this proceeding be terminated.

^{2/} On Monday, April 3, 2000, Licensee intends to submit its Answer to the Hearing Request filed by the other parties to this proceeding -- Jobert Inc. and Metals Trucking, Inc. As a result, this Motion is limited to the Hearing Request filed by the Redevelopment Authority and the City. It is unopposed by those two parties and the NRC Staff as discussed below. Although this Motion is not material to the participation of Jobert Inc. and Metals Trucking, Inc., counsel for Licensee has attempted to contact counsel for Jobert Inc. and Metals Trucking, Inc., regarding this Motion but has not been successful.

While significant progress has been made toward settlement, additional time is required to resolve remaining issues, complete a written settlement agreement, and obtain the necessary approvals from the municipal authorities. Licensee, the Redevelopment Authority and the City estimate that an additional 60 days will be needed to complete this process.

Licensee, the Redevelopment Authority and the City believe that it would be counterproductive for Licensee to submit its Answer and for the Presiding Officer to rule on the Request for Hearing when it appears that settlement can be achieved. Accordingly, Licensee hereby requests a further extension of time until May 30, 2000 for it to submit its Answer to the pending Request for Hearing filed by the Redevelopment Authority and the City. Counsel for those two parties have indicated that they do not object to this Motion.

This agreement does not affect the NRC Staff's ability to proceed with its normal process of considering Licensee's application. Counsel for the NRC Staff have indicated that the Staff does not object to this Motion provided that the Staff's time for filing its Answer is extended until 10 days after Licensee's Answer is due, and provided that the Staff's normal process for consideration of, and action on the Licensee's application is not limited by the granting of this Motion.

Accordingly, in order to facilitate complete settlement among Licensee, the Redevelopment Authority and the City, Licensee moves that the deadline for submittal of its

Answer to the Hearing Request of the Redevelopment Authority and the City be extended for 60 days until May 30, 2000.

Respectfully submitted,



Alvin H. Guttenman
Donald J. Silverman
Morgan, Lewis & Bockius LLP
1800 M St., NW
Washington, DC 20036
(202) 467-7502

Paul C. Nightingale
Counsel
Cabot Corporation
175 State St.
Boston, MA 02109

Dated: March 31, 2000

Attorneys for Cabot Performance Materials

CONDEMNATION OF PREMISES
450-454 AND
466-490 TULPEHOCKEN STREET,
IN THE CITY OF READING,
BERKS COUNTY, PENNSYLVANIA
by the
REDEVELOPMENT AUTHORITY
OF THE CITY OF READING

OWNER OR REPUTED OWNER:
METALS TRUCKING, INC.
P.O. Box 508
Honeybrook, PA 19344

IN THE COURT OF COMMON PLEAS
OF BERKS COUNTY, PENNSYLVANIA
NO. 2000- *2292*

EMINENT DOMAIN
PROCEEDING IN REM

NOTICE TO CONDEMNEE

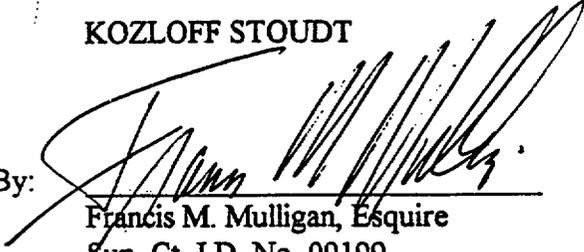
TO: Metals Trucking, Inc.
P.O. Box 508
Honeybrook, PA 19344

Attached hereto find a true and correct copy of the Declaration of Taking as it relates to you which has heretofore been filed on the date stated in the filing herein in the Office of the Prothonotary of the Court of Common Pleas of Berks County, Pennsylvania, as of the above-captioned term and number whereupon a fee simple condemnation described in the said Declaration of Taking (a Drawing/Plan of which showing the area condemned being attached hereto) was condemned by Redevelopment Authority of the City of Reading.

You are further notified that if you desire to present any objection or defense to the power or the right of Redevelopment Authority of the City of Reading to condemn the fee simple absolute title, the sufficiency of the security, the procedure followed by Redevelopment Authority of the City of Reading or the Declaration of Taking, you are required to file Preliminary Objections

within thirty (30) days after service of this Notice. All defenses and objections not so presented are waived.

KOZLOFF STOUDT

By: 

Francis M. Mulligan, Esquire

Sup. Ct. I.D. No. 09199

Timothy G. Dietrich, Esquire

501 Washington Street, P.O. Box 877

Reading, PA 19603-0877

(610) 374-8293

Attorneys for Condemnor

Dated: *13 March*, 2000

Pennsylvania (hereinafter called the "Property") for the purpose of eliminating blight and redeveloping the area pursuant to the Redevelopment Plan. A description of the Property is attached hereto as Exhibit A and made a part hereof.

4. The Resolution authorizing the condemnation is attached hereto, marked Exhibit "B", and made a part hereof.

5. Condemnor hereby condemns, in fee simple title, the real estate described in Exhibit "A", attached hereto and made a part hereof.

6. A notice containing the legal description of the subject condemned real estate and a plan is being contemporaneously filed in the Office of the Recorder of Deed in and for Berks County, in accordance with Section 404 of the Eminent Domain Code, Act of June 22, 1964, P.L. 84, as amended, 26 P.S. § 1-404. The Eminent Domain Code governs the procedure to be followed in this case.

7. The original of the aforesaid Resolution and a description of the condemned Property may be inspected at the above address of Condemnor.

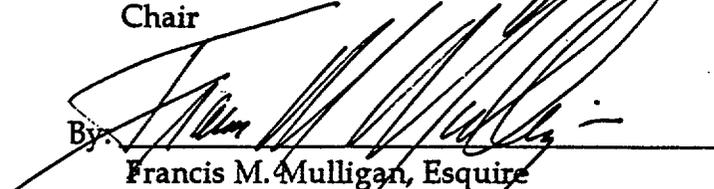
8. Condemnor has executed and has attached as Exhibit C hereto its bond, in unlimited amount and without surety, pursuant to Section 403(a) of the Eminent Domain Code, 26 P.S. § 1-403(a).

9. Said bond is made payable to the Commonwealth of Pennsylvania as obligee and is being filed for the use of the owner or owners of the property interests condemned, and is conditioned only on the Condemnor paying such damages as shall be determined by law.

WHEREFORE THE REDEVELOPMENT AUTHORITY OF THE CITY OF
READING, Condemnor, prays that Your Honorable Court accept its bond as security
for the within condemnation and determine just compensation as determined by law.

REDEVELOPMENT AUTHORITY OF
THE CITY OF READING

By: 
Chair

By: 
Francis M. Mulligan, Esquire
Timothy G. Dietrich, Esquire
KOZLOFF STOUT
Attorneys for Condemnor
501 Washington Street, The Berkshire
Sixth Floor, Box 877
Reading, PA 19603-0877

DOCKETED
USNRC

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

'00 APR 11 P5:40

ATOMIC SAFETY AND LICENSING BOARD PANEL

**Before Administrative Judges:
Alan S. Rosenthal, Presiding Officer
Dr. Richard F. Cole, Special Assistant**

In the Matter of

**CABOT PERFORMANCE MATERIALS,
Reading, Pennsylvania**

Docket No. 40-9027-MLA

Re: Site Decommissioning Plan

CERTIFICATE OF SERVICE

I hereby certify that on this date copies of **LICENSEE'S MOTION FOR EXTENSION OF TIME TO RESPOND TO THE REQUEST FOR A HEARING OF REDEVELOPMENT AUTHORITY OF THE CITY OF READING AND CITY OF READING** was served upon the following persons by facsimile and deposit in the United States mail, first class, postage prepaid and properly addressed:

Office of the Secretary
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
ATTN: Rulemaking and Adjudication Staff
Fax #: 301-415-1672

Office of Nuclear Material Safety and
Safeguards
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
Attn: Timothy E. Harris
Fax #: 301-415-5398

Carl J. Engleman, Jr., Esq.
Ryan, Russell, Ogden & Seltzer, LLP
1100 Berkshire Blvd.
Suite 301
Reading, PA 19610-1221
Fax #: 610-372-4177

Keith Mooney, Esq.
City of Reading
Department of Law
City Hall, Room 2-54
815 Washington St.
Reading, PA 19601-3690
Fax #: 610-655-6427

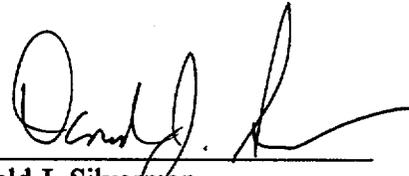
Jonathan E. Rinde, Esq.
Manko, Gold & Katcher, LLP
401 City Avenue, Suite 500
Bala Cynwyd, PA 19004
Fax #: 610-660-5711

Giovanna M. Longo, Esq.
Office of the General Counsel
U.S. Nuclear Regulatory Commission
Mail Stop 0-15 D21
Washington, DC 20555-0001
Fax #: 301-415-3572

Judge Alan S. Rosenthal
Presiding Officer
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Mail Stop T-3 F23
Washington, DC 20555-0001
Fax#: 301-415-5599

Judge Richard F. Cole
Special Assistant
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
Fax#: 301-415-5599

Timothy G. Dietrich
Kozloff Stoudt
Sixth Floor, The Berkshire
501 Washington Street
Box 877
Reading, PA 19603-0877
Fax#: 610-374-6061



Donald J. Silverman
Morgan, Lewis & Bockius LLP
1800 M St., NW
Washington, DC 20036
(202) 467-7468

Attorney for Cabot Performance Materials

Dated: March 31, 2000