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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD PANEL

DOCKETED 07/10/00

SERVED 07/10/00

Before Administrative Judges:

G. Paul Bollwerk, III, Presiding Officer
Frederick J. Shon, Special Assistant

In the Matter of

GRAYSTAR, INC.

(Suite 103, 200 Valley Road,
Mt. Arlington, NJ 07856)

Docket No. SSD 99-27

ASLBP No. 00-778-06-ML

July 10, 2000

MEMORANDUM AND ORDER
(Initial Order)

By letter dated June 1, 2000, GrayStar, Inc., (GrayStar) requested a hearing to challenge the NRC staff's May 24, 2000 determination denying the request of GrayStar, as set forth in its April 19, 1999 application and September 27, 1999 letter, to register the Model GS-42 sealed source and the Model 1 irradiator. By memorandum and order issued June 13, 2000, the Commission referred the GrayStar request to the Atomic Safety and Licensing Board Panel's Chief Administrative Judge for appointment of a Presiding Officer to conduct a 10 C.F.R. Part 2, Subpart L, informal adjudicatory proceeding relative to the GrayStar request. See CLI-00-10, 51 NRC __ (Jun. 13, 2000). This Presiding Officer and Special Assistant were appointed on June 16, 2000. See 65 Fed. Reg. 38,867 (2000). Thereafter, in response to the Presiding Officer's June 16, 2000 memorandum and order, on June 26, 2000, the staff filed its answer to the GrayStar hearing request, declaring that it found the GrayStar request to be timely and thus did not oppose GrayStar's admission as a party to this proceeding.

The GrayStar hearing request is granted. In accordance with 10 C.F.R. § 2.1205(i), the parties to this proceeding shall be GrayStar and the staff. This same date, a notice of hearing

is being issued that establishes a deadline for filing a timely petition to intervene by any other person whose interest may be affected by this proceeding.

In addition, the Presiding Officer establishes the following administrative and scheduling directives for this proceeding:

A. Hearing File

The staff shall submit the hearing file for this proceeding on or before Tuesday, August 1, 2000. The file shall contain a chronologically numbered index of each item included in the file. Additionally, each file item shall be separately tabbed in accordance with the index and be separated from the other file items by a substantial off-white or colored sheet of paper that contains the tab(s) for the immediately following item. The file items also should be three-hole punched and housed in three-ring binders no more than four inches thick.

B. Service on the Presiding Officer/Special Assistant and Other Participants

For each pleading or other submission filed before the Presiding Officer or the Commission in this proceeding, subject to the requirements of section B.7 below, in addition to submitting an original and two conforming copies to the Office of the Secretary as required by 10 C.F.R. § 2.1203(c) and serving a copy on every other participant in accordance with section 2.1203(e), a participant should serve conforming copies on the Presiding Officer and the Special Assistant by one of the following methods:

1. Regular Mail. To complete service on the Presiding Officer and the Special Assistant via United States Postal Service first-class mail, a participant should send conforming copies to both the Presiding Officer and the Special Assistant at the following address:

Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

For regular mail service, the staff may use the NRC internal mail system (Mail Stop T-3F23) in lieu of first-class mail.

2. Overnight or Hand Delivery. To complete service on the Presiding Officer and the Special Assistant via overnight (e.g., express mail) or hand delivery, a participant should send conforming copies to both the Presiding Officer and the Special Assistant at the following address:

Atomic Safety and Licensing Board Panel
Third Floor, Two White Flint North
11545 Rockville Pike
Rockville, MD 20852

It should be noted that use of the Presiding Officer's regular mail address (see section B.1 above) on an overnight/hand delivery (such as Federal Express) may delay receipt of the filing.

3. Facsimile Transmission. To complete service on the Presiding Officer and the Special Assistant by facsimile transmission, a participant should (a) send one copy by rapifax to the attention of the Presiding Officer and the Special Assistant at (301) 415-5599 (verification (301) 415-7399); and (b) that same date, send conforming copies to both the Presiding Officer and the Special Assistant by regular mail at the address given in section B.1 above.

4. E-Mail. To complete service on the Presiding Officer and the Special Assistant by internet e-mail transmission, a participant should (a) send the filing (which should include the certificate of service) as a file attached to an e-mail message directed to both the Presiding Officer and the Special Assistant (Internet IDs: gpb@nrc.gov, fjs@nrc.gov); and (b) send paper conforming copies that same date to both the Presiding Officer and the Special Assistant by regular mail at the address given in section B.1 above.

If a participant has a pleading it wishes to send by e-mail that includes attachments it is unable to convert to electronic form, it should do one of the following:

- a. If the attachments the participant is unable to convert to electronic form are fifteen pages or less, contemporaneous with the transmission of the pleading by e-mail the attachments should be sent by a separate facsimile transmission. The e-mail and facsimile transmissions should note that separate transmission modes are being used. The paper conforming copies of the pleading and attachments should be sent to both the Presiding Officer and the Special Assistant by regular mail at the address given in section B.1 above.
- b. If the attachments the participant is unable to convert to electronic form are more than fifteen pages, the pleading should be sent by e-mail and the paper conforming copy of the pleading with the attachments should be sent to both the Presiding Officer and the Special Assistant by express mail or other means that will ensure delivery on the next business day. The e-mail should note that there will be next-day service of the pleading with the attachments.

5. Timely Service by Hand Delivery, Facsimile Transmission, or E-Mail. To be timely, any pleading or other submission served on the Presiding Officer and the Special Assistant by hand delivery, facsimile transmission, or e-mail must be received by the Presiding Officer and the Special Assistant no later than 12:00 a.m. (midnight) Eastern Time on the date due.

6. Service on Other Participants. Whichever of the methods outlined above (e.g., facsimile or e-mail with conforming paper copies to follow by mail) is used for service on the Presiding Officer and the Special Assistant, the participant serving the pleading should make service on all other participants and the Office of the Secretary (e-mail address: HEARINGDOCKET@nrc.gov) by the same or a comparable method.

7. Service of Filings. The hearing file may be served on the Presiding Officer, the Special Assistant, and the other participants by regular mail in accordance with section B.1 above. Absent some other directive from the Presiding Officer, all other filings in this case directed to the Presiding Officer shall be served on the Presiding Officer, the Special Assistant, and the other participants so as to ensure receipt on the day of filing. For these other filings, the participants may use any of the methods outlined above so long as the filing is timely

received by the Presiding Officer, the Special Assistant, and the other participants; nonetheless, the preferred service method is e-mail with conforming paper copies by regular mail, as described in section B.4 above.

C. Exhibits/Attachments to Filings

If a participant files a pleading or other submission with the Presiding Officer that has additional documents appended to it as exhibits or attachments, a separate alpha or numeric designation (e.g., Exhibit 1; Attachment A) should be given to each appended document, either on the first page of the document or on a cover/divider sheet in front of the document.

It is so ORDERED.

BY THE PRESIDING OFFICER^{*}

/RA/

G. Paul Bollwerk, III
ADMINISTRATIVE JUDGE

Rockville, Maryland

July 10, 2000

^{*}Copies of this memorandum and order were sent this date by Internet e-mail transmission to counsel for (1) petitioner GrayStar; and (2) the staff.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
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GRAYSTAR, INC.) Docket No. SSD 99-27
)
(Suite 103, 200 Valley Road,)
Mt. Arlington, NJ 07856))

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB MEMORANDUM AND ORDER (INITIAL ORDER) have been served upon the following persons by U.S. mail, first class, or through NRC internal distribution.

Office of Commission Appellate
Adjudication
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Administrative Judge
G. Paul Bollwerk, III, Presiding Officer
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Administrative Judge
Frederick J. Shon, Special Assistant
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Docket No. SSD 99-27
LB MEMORANDUM AND ORDER
(INITIAL ORDER)

Anthony J. Thompson, Esq.
Warren U. Lehrenbaum, Esq.
David C. Lashway, Esq.
William R. Hollaway, Esq.
Shaw Pittman
2300 N Street, NW
Washington, DC 20037

[Original signed by Adria T. Byrdsong]

Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 10th day of July 2000