

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

RAS 2180

DOCKETED 09/14/00

ATOMIC SAFETY AND LICENSING BOARD PANEL

SERVED 09/14/00

Before Administrative Judges:

Ann Marshall Young, Presiding Officer  
Thomas D. Murphy, 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

September 14, 2000

ORDER

(Addressing Matters Considered at September 7, 2000, Telephone Conference)

On September 7, 2000, a transcribed telephone conference was held in the above-captioned case at the request of GrayStar, Inc. (GrayStar), which has in this case requested a hearing to challenge the NRC staff's May 24, 2000, denial of its application to register its Model GS-42 sealed source for its Model 1 irradiator. The following matters were considered and decided at this conference:

1. Counsel for GrayStar stated that GrayStar wished to raise an additional issue in the case, specifically, the applicability of 10 C.F.R. Part 36 to the GS-42 sealed source and Model 1 irradiator, based upon certain provisions found at 10 C.F.R. § 36.1 and in the statement of considerations filed with Part 36. See 58 Federal Register 7715 et seq. (1993). The staff disagreed with GrayStar's interpretation that Part 36 might not apply, noting that this issue had previously come up in correspondence between the staff and GrayStar, a copy of which correspondence had been provided the day prior to the conference to the Presiding Officer and mailed the same day to counsel for GrayStar, along with a revised Hearing File Index.

2. Counsel for the staff also indicated that it wished to raise the applicability of 10 C.F.R. § 36.35, regarding source rack protection, as an additional issue in the case.

3. Counsel for the parties agreed that, as a result of the new issues brought forth and the new documents added to the hearing file, they wished to have certain deadlines extended. For such good cause shown, the deadline for the filing of simultaneous written presentations shall be extended to September 25, 2000; for the filing of responses, to October 30, 2000; and for the filing of any request for further proceedings in the case, to November 2, 2000.

4. In addition, unless earlier canceled, another telephone conference shall be held on Wednesday, November 8, 2000, at 10:00 a.m. Eastern time, to discuss any request(s) for further proceedings and any other appropriate matters. The November 6 and December 15 deadlines for the Presiding Officer's questions to the parties and Initial Decision in the case may also if necessary be extended to the degree required by the above extensions of time and as required by any further proceedings in the case.

5. The new issues of the applicability of 10 C.F.R. Part 36 and compliance with 10 C.F.R. § 36.35 shall be added to the issues to be addressed in both parties' written presentations and responses, as sections 3.5.a and 3.5.b, respectively, of the issue outline previously provided.

It is so ORDERED.

BY THE PRESIDING OFFICER<sup>1</sup>

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Ann Marshall Young  
ADMINISTRATIVE JUDGE

Rockville, Maryland  
September 14, 2000

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<sup>1</sup>Copies of this Order were sent this date by Internet e-mail transmission to all participants or counsel for participants.

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

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB ORDER (ADDRESSING MATTERS CONSIDERED AT SEPTEMBER 7, 2000, TELEPHONE CONFERENCE) have been served upon the following persons by U.S. mail, first class, or through NRC internal distribution.

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Washington, DC 20555-0001

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Administrative Judge  
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Docket No. SSD 99-27  
LB ORDER (ADDRESSING MATTERS  
CONSIDERED AT SEPTEMBER 7, 2000,  
TELEPHONE CONFERENCE)

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[Original signed by Adria T. Byrdsong]

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Office of the Secretary of the Commission

Dated at Rockville, Maryland,  
this 14<sup>th</sup> day of September 2000