

December 26, 2002 (11:17AM)

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD PANEL

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

Before Administrative Judges:

Alan S. Rosenthal, Presiding Officer
Thomas D. Murphy, Special Assistant

In the Matter of)	Docket No. 40-8838-MLA
)	
U.S. ARMY)	ASLBP No. 00-776-04-MLA
)	
(Jefferson Proving Ground Site))	December 17, 2002
)	

**MOTION FOR EXTENSION OF TIME
TO FILE RESPONSE**

Department of Army respectfully requests grant of this motion for extension of time to file a Reply to Motion to Defer Hearing Pending Completion of Technical Review and Request for Hearing and Comments on Revised Decommissioning Plan by Save the Valley, Inc., dated December 16, 2002 and Memorandum and Order (Granting Request to Hold Proceeding in Abeyance), LBP-01-32, at 11 (November 7, 2001). Department of Army requests the Extension of Time to Reply be granted until 17 January 2002.

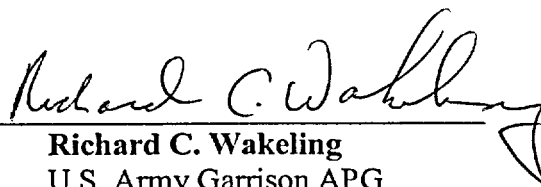
On 16 December 2002, Department of Army received by mail a Notice of Appearance, a Motion to Defer Hearing Pending Completion of Technical Review and a Request for Hearing and Comments on Revised Decommissioning Plan by Save The Valley, Inc. Regulation at 10 CFR 2.1205 (g) provides that within 10 days of service of a request for hearing filed under paragraph (d) of this subsection, the Department of Army may file an Answer. Regulation at 10 CFR 2.1205 (d) provides computation of time and extension and reduction of time limits is done in accordance with 10 CFR 2.710-2.711. Regulation at 10 CFR 2.710 provides that a party that receives service by mail shall have five (5) days added to the prescribed time to respond. Applying these provisions to service made by Save the Valley, Inc., to the Department of Army would allow the Army to file an Answer by 31 December 2002. Regulation at 10 CFR 2.711(a) provides that the presiding officer may for good cause extend the time provided to the Army to file an Answer, or by stipulation approved by the presiding officer.

Counsel for Department of Army, Mr. Richard C. Wakeling telephonically contacted counsel for Save the Valley, Inc., Mr. Jerome E. Polk on 17 December 2002 and requested whether Save the Valley, Inc., would agree to provide Department of Army

an extension of time to file an answer to its Motion to Defer Hearing Pending Completion of Technical Review and its Request for Hearing and Comments on Revised Decommissioning Plan by Save the Valley, Inc., dated December 16, 2002. Counsel for Save the Valley, Inc. agreed to the requested extension of time to file an answer until 17 January 2002.

Counsel for Department of Army made this request of Save the Valley, Inc., after it was determined that Department of Army was not in a position to provide full and meaningful consideration to the Request for Hearing and Comments on Revised Decommissioning Plan and Motion to Defer Hearing Pending Completion of Technical Review. This inability is mainly attributable to mandatory end of year use or loose annual leave requirements and the pending Christmas and New Year holidays, which resulted in critical technical personnel not being available. The unavailability of critical technical personnel precludes the ability to provide informed recommendations to Department of Army command decision makers. Department of Army feels the granting of this request will not cause undue prejudice or injury to Save the Valley, Inc., but rather will assist in more meaningful consideration of matters presented.

Dated this Tuesday, December 17, 2002



Richard C. Wakeling
U.S. Army Garrison APG
2201 Aberdeen Boulevard
Office of the Staff Judge Advocate,
AMSSB-GJA (Bldg. 310)
Aberdeen Proving Ground, MD 21005-5001

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD PANEL

Before Administrative Judges:
Alan S. Rosenthal, Presiding Officer
Thomas D. Murphy, Special Assistant

In the Matter of

U.S. ARMY

(Jefferson Proving Ground Site)

)
)
)
)
)
)
)

Docket No. 40-8838-MLA

ASLBP No. 00-776-04-MLA

December 17, 2001

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Motion for Extension of Time To File Response have been served upon the following persons by certified U. S. mail:

Office of the Secretary
Office of Commission Appellate Adjudication
U.S. Nuclear Regulatory Commission
Mail Stop: O-16-G-15
Washington, DC 20555

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

Adjudicatory File
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Mail Stop: T-3-F23
Washington, DC 20555

Office of the Secretary
Attn: Rulemaking & Adjudications Staff
U.S. Nuclear Regulatory Commission
Mail Stop: O-16-G-15
Washington, DC 20555

Administrative Judge
Thomas D. Murphy, Special Assistant
Atomic Safety and Licensing Board Panel
Mail Stop-T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Richard Hill, President
Save the Valley, Inc.
P.O. Box 813
Madison, IN 47250

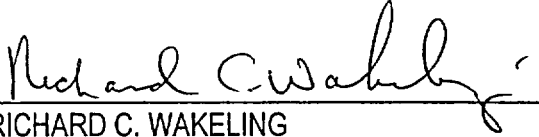
Dennis C. Dambly, Esq
Office of the General Counsel
Mail Stop – O-15 D21
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Jerome E. Polk
Michael A. Mullett, Esq.
Mullett & Associates
309 West Washington Street
Suite 233
Indianapolis, IN 46204-2721

Stephen H. Lewis
David A. Cummings
Office of the General Counsel
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Tom McLaughlin, Decommissioning Branch
Division of Waste Management
Office of Nuclear Materials & Safeguards
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

DATE: 17 December 2002


RICHARD C. WAKELING
U.S. Army Garrison Aberdeen Proving Ground