

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

December 1, 2003 (3:05PM)

ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

In the Matter of)
)
U.S.ARMY)
)
(Jefferson Proving Ground Site))
)

Docket No. 40-8838-MLA

ASLBP No. 00-776-04-MLA

MOTION TO SCHEDULE HEARING
FOLLOWING COMPLETION OF TECHNICAL REVIEW

Intervener Save The Valley ("STV") respectfully moves the Atomic Safety and Licensing Board ("Board" or "ASLB") to schedule the hearing STV is concurrently requesting in the above captioned matter at a time following completion of the NRC Staff's technical review of the pending request of the Department of the Army ("Army" or "DA") for an amendment to its license (Material License No. SUB-1435) for the depleted uranium ("DU") ordnance testing site at the Jefferson Proving Ground ("JPG") near Madison, Indiana.

In support of its Motion, STV would respectfully show the Board:

1. This proceeding falls within the scope of 10 CFR Part 2, Subpart L, "Informal Hearing Procedures for Adjudication in Materials Licensing Proceedings."

2.. On October 28, 2003, the NRC published in the Federal Register its notice of consideration of the Army's possession only license amendment ("POLA") request for the JPG DU site¹ and of the opportunity for interested persons to request a hearing on that request. 68

¹See U.S. Army Chemical Materials Agency, Transmittal of Contingent Request for an Alternate Schedule for the Submittal of a Decommissioning Plan for the Termination of the Jefferson Proving Ground License SUB1435, with supporting documentation, September 2003 (available for inspection and copying at www.nrc.gov from the Publicly Available Records (PARS) component of NRC's document system (ADAMS) under accession number

Fed. Reg. 61471.

3. Concurrently with filing this Motion, STV is timely filing its Request for Hearing pursuant to the Federal Register notice.

4. STV respectfully requests that the hearing it has requested in this proceeding be scheduled at a time following completion of the NRC Staff's technical review of the requested POLA. STV submits that this action will not delay ultimate action on the Army's request while permitting STV to base its written presentation in this matter on a complete Hearing File.

5. STV submits that this action would be consistent with the scheduling of the prior hearings granted in this proceeding. See LBP-03-02, at 6-7.

6. STV further submits that this action would be consistent with similar action taken under comparable circumstances in the Sequoyah Fuels Corp. case. See Memorandum and Order, at 3-4, Docket No. 40-8027-MLA-4, ASLB No. 99-70-09-MLA (March 23, 2000). In the Sequoyah case, the Presiding Officer accepted the State of Oklahoma's view that the hearing it had requested should be deferred until completion of the NRC Staff technical review because "[t]he Hearing File must be complete when the parties present their formal presentations on the issues." Id., at 4.

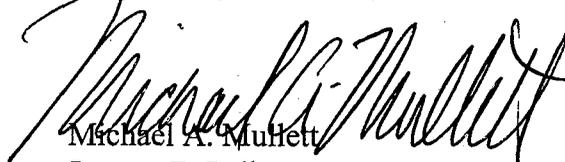
7. Based on the information publicly available to STV, it would be STV's expectation that granting its scheduling request would result in a hearing in Spring, 2004.

WHEREFORE, Save The Valley, Inc., respectfully requests that the hearing it has requested in this proceeding be scheduled following completion of the NRC Staff technical

ML032731017).

review of the Army's pending POLA request, as well as all other relief just and proper under the circumstances.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael A. Mullett". The signature is written in a cursive, flowing style.

Michael A. Mullett

Jerome E. Polk

Mullett, Polk & Associates, LLC

309 West Washington Street, Suite 233

Indianapolis, IN 46204

Phone: (317) 636-5165

Fax: (317) 636-5435

E-mail: jpolk@mullettlaw.com

mmullett@mullettlaw.com

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing pleading have been served this 26th day of November, 2003, upon the following persons by electronic mail and by U.S. Mail, first class postage prepaid.

Administrative Judge Alan S. Rosenthal,
Presiding Officer
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Mail Stop: T-3-F-23
Washington, D.C. 20555-0001

Adjudicatory File
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Mail Stop: T-3-F-23
Washington, D.C. 20555

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

Administrative Judge Thomas D. Murphy
Special Assistant
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Mail Stop: T-3-F-23
Washington, D.C. 20555

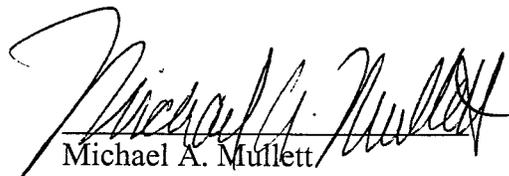
Office of the Secretary
ATTN: Rulemaking and Adjudications Staff
U.S. Nuclear Regulatory Commission
Mail Stop: O-16-G-15
Washington, D.C. 20555

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

Stephen H. Lewis
David A. Cummings
Office of the General Counsel
U.S. Nuclear Regulatory Commission 0-15D21
Washington, DC 20555

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

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


Michael A. Mullett