

License Nos.: 37-00030-02  
37-00030-08

Docket Nos.: 03005980  
03005982

Safety Light Corporation

Title: Selected pages from deposition of Ralph T. McElvenny on March 25, 1992 (Complete deposition at ML040230230 and ML040230392)

This document is Exhibit No. 16 to NRC Staff's Motion for Summary Disposition As To NRC Jurisdiction Over USR Industries, Inc., USR Lighting, Inc., USR Chemical Products, Inc., USR Metals, Inc., and USR Natural Resources, Inc., dated June 30, 1992 (ML040230156) and NRC Staff's Statement of Undisputed Material Facts As to Which No Genuine Issue Remains (ML040230151)

List of all Exhibits at ML040220785.

Tab. 16  
Staff Exh. 16

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

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In the Matter of :  
SAFETY LIGHT CORPORATION :  
UNITES STATES RADIUM CORPORATION :  
USR INDUSTRIES, INC. : Docket Nos.  
USR CHEMICAL PRODUCTIONS, INC. : 030-05980  
USR METALS, INC. : 030-05982  
USR LIGHTING, INC. : 030-08335  
U.S. NATURAL RESOURCES, INC. : 030-08444  
LIME RIDGE INDUSTRIES, INC. :  
METREAL, INC. :  
(Bloomsburg Site Decontamination) :

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The deposition of RALPH T. McELVENNY was taken at 1:10 p.m., on Wednesday March 25, 1992, at the offices of NRC Staff, Office of the General Counsel, 11555 Rockville Pike, Rockville, Maryland 20852, before Walter R. Smith II, court reporter and notary public in and for the District of Columbia, when were present:

1 incorporated?

2 A. Simultaneously with the approval of the  
3 stockholders at the meeting. The new corporations were set  
4 up prior to approval and the assets were transferred in to  
5 them.

6 Q. So the separate corporations were actually  
7 incorporated prior to this transaction?

8 A. Prior to approval of the transaction. With the  
9 expectation the transaction would be approved, they were set  
10 up, and there was a diagram that shows exactly how that was  
11 done, pages 14 and 15 of the proxy statement.

12 Page 14 shows the various divisions. Bear in mind  
13 some of those were totally inactive, and some of them were  
14 active, and page 15 shows how USR Industries and its  
15 subsidiaries existed immediately after the transaction when  
16 the various divisional assets were contributed into  
17 corporate subsidiaries of USR Industries. Each one went  
18 into its own natural corporate home.

19 In other words, the chemical products division  
20 became USR Chemical Products, Inc.; the lighting products  
21 division began USR Lighting Products, Inc.; the metals  
22 division became USR Metals; and the atomic became Safety  
23 Light Corporation.

24 You have on page 15 two other entities which were  
25 inactive or subsequently became inactive. They are U.S.

1 with different kinds of names that denoted new activities  
2 for the future. Standard Oil, I think, would be typical to  
3 be renamed Exxon, a brand-new name. I decided yesterday  
4 that we use an alphabet soup name. This was not unusual at  
5 the time.

6 Q. Before the 1980 reorganization, did you notify the  
7 NRC of U.S. Radium's intent to restructure?

8 A. There was no requirement that the Corporation do  
9 that, I don't believe.

10 Q. I didn't ask you if there was a requirement, I  
11 just wanted to know if you notified.

12 A. If there wasn't a requirement, we weren't likely  
13 to do it. We just would meet the requirements.

14 Q. So you didn't notify us, notify the NRC of the  
15 intent to restructure?

16 A. Who? I didn't?

17 Q. Yes, you personally.

18 A. No, I didn't. The USR Industries, Inc., did not  
19 know of any requirement to notify the NRC in this case.

20 Q. Do you know if anyone at U.S. Radium notified the  
21 NRC of the restructuring before it occurred? I am talking  
22 about the 1980 restructuring.

23 A. No, I don't believe there was any requirement to  
24 make such notification.

25 MR. CHARNOFF: I would point out, Mr. Weisman,

1 this reorganization was attended to by Shearman & Sterling,  
2 a good law firm in New York.

3 THE WITNESS: The companies had good counsel all  
4 the way along, and still does.

5 MR. CHARNOFF: Which regulatory requirements,  
6 those lawyers who advise them.

7 BY MR. WEISMAN:

8 Q. Did anyone at USR Industries?

9 A. Didn't you just ask that?

10 Q. I asked U.S. Radium.

11 A. I think before that.

12 MR. TURK: Yes, you did.

13 MR. WEISMAN: I thought I asked radium?

14 THE WITNESS: You did ask radium.

15 MR. CHARNOFF: Let's not quarrel. Bob, nobody  
16 from these entities asked the NRC for approval. No law firm  
17 advised them it was required. That's it.

18 MR. WEISMAN: That's good enough for me.

19 BY MR. WEISMAN:

20 Q. Do you agree with that?

21 A. Yes.

22 Q. Do you know of any written consent that the NRC,  
23 explicit written consent that the NRC sent to U.S. Radium or  
24 USR Industries prior to the August 1980 reorganization?

25 A. No.

1 Q. Do you know of any explicit written consent that  
2 the NRC sent to U.S. Radium or USR Industries after the  
3 August 1980 reorganization?

4 A. Mr. Weisman, you have just said, and I think  
5 counsel has competently stated what the situation is.

6 MR. CHARNOFF: Give a one word answer.

7 MR. WEISMAN: I didn't hear it.

8 MR. CHARNOFF: He said it. You will read it in  
9 the transcript.

10 MR. TURK: The answer was he doesn't know of any.

11 MR. CHARNOFF: He said "no," a one word answer.

12 MR. WEISMAN: Okay.

13 BY MR. WEISMAN:

14 Q. Have you been party to any, and let me limit this  
15 question. Since the '80 reorganization, until -- I think it  
16 is approximately 1988 when the NRC issued a demand for  
17 information, in that time period, were you party to any  
18 communications with the NRC.

19 MR. CHARNOFF: Since when?

20 MR. WEISMAN: From the 1980 reorganization.

21 MR. CHARNOFF: From August '80 to the so-called  
22 famous '88 letter to Mr. McElvenny?

23 MR. WEISMAN: Right.

24 MR. CHARNOFF: Any communication with him?

25 MR. WEISMAN: I am asking him.

1 litigation.

2 A. That's a different deal completely. There you  
3 don't have that right on the part of USR Industries, Inc.,  
4 but you do have different obligations of USR Industries.

5 As I see under 10.3, Industries is paying for all  
6 the out of pocket and the legal fees expended or disbursed  
7 by Safety Light in defending that litigation. And, I  
8 believe, that USR Industries, by the way, was not a  
9 defendant in that litigation. I am not sure.

10 But the circumstances were different for the  
11 Orange litigation, where USR Industries was a named  
12 defendant, and in the Pinnacle litigation, where I don't  
13 believe USR Industries was a named defendant.

14 Q. If that's the difference, that's the explanation.  
15 Were there any other reasons that you can recall why those  
16 might have been structured differently?

17 A. That's a pretty good reason, not being a  
18 defendant.

19 Q. Prior to the May 1982 sale of Safety Light to Jack  
20 Miller and his partners by USR Industries, do you know if  
21 USR Industries informed the NRC that sale was going to take  
22 place?

23 A. There was no requirement to do so, of which USR  
24 Industries was advised.

25 Q. Does that mean the answer is no?

1 A. That means the answer is no.

2 Q. Do you know if Safety Light informed the NRC of  
3 the May 1982 sale before it occurred?

4 A. I don't know.

5 Q. Do you know of any explicit written consent that  
6 the NRC sent to USR Industries or Safety Light prior to the  
7 May 1982 sale?

8 A. I don't think it was requested or required.

9 Q. So the answer to that question is no?

10 A. Yes.

11 Q. Yes, the answer is no?

12 A. Yes.

13 MR. CHARNOFF: The answer is exactly the right  
14 vernacular.

15 BY MR. WEISMAN:

16 Q. I will ask you a question, and I think I asked you  
17 this before, but I want to make it clear in this context:  
18 From 1982 until 1988, when the NRC first issued a demand for  
19 information to USR Industries, did you receive any  
20 correspondence from the NRC?

21 A. I can't remember receiving any.

22 Q. Do you know if USR Industries received any  
23 correspondence from the NRC in that same time period?

24 A. I don't recall USR Industries receiving any  
25 correspondence during that time period.

1 Q. Are you aware, or has anyone related to you any  
2 oral statements by the NRC since the May 1982 transaction  
3 that would state the NRC's acquiescence in that transaction?

4 MR. CHARNOFF: You mean has USR received an oral  
5 communication from the NRC, or are you talking about anybody  
6 else getting it?

7 MR. WEISMAN: We will break it into two questions.

8 MR. CHARNOFF: Thank you.

9 MR. WEISMAN: First we will say USR Industries.

10 MR. CHARNOFF: The first question he answered, did  
11 you receive any written communication from the NRC, and he  
12 said not that he recalls. Now you are asking, did USR  
13 receive any oral communications from the NRC between May of  
14 '82 and 1988.

15 BY MR. WEISMAN:

16 Q. Let's go back and say: Prior to the May '82  
17 transaction, did USR Industries receive any oral  
18 communication from the NRC.

19 MR. CHARNOFF: Regarding?

20 MR. WEISMAN: Stating the NRC's approval of this  
21 transaction.

22 MR. CHARNOFF: Stating explicitly?

23 MR. WEISMAN: Stating it explicitly.

24 THE WITNESS: Not that I recall.

25 MR. WEISMAN: After the May '82 transaction, did

1       USR Industries receive any oral communications from the NRC  
2       explicitly approving this?

3               MR. CHARNOFF: Did he receive any oral  
4       communications at all from the NRC between May '82 and 1988?

5               MR. WEISMAN: Fine.

6               THE WITNESS: No.

7               BY MR. WEISMAN:

8               Q. Prior to May 1982, did you receive any oral  
9       communication that suggested to you that the NRC approved  
10      that transaction.

11              MR. CHARNOFF: Prior to 1982 did he have any oral  
12      communications with the NRC relating to the transaction?

13              MR. WEISMAN: Any oral communication with anybody?

14              MR. CHARNOFF: Relating to the transaction?

15              MR. WEISMAN: Suggesting to him --

16              MR. CHARNOFF: What does "with anybody" mean? Did  
17      he talk to Jerry Charnoff as to whether or not there was an  
18      NRC approval, is that what the breadth of the question is?

19              MR. WEISMAN: I will say anybody. Was it Jerry  
20      Charnoff or Jack Miller, any communication?

21              MR. CHARNOFF: Let me help. Are you aware of or  
22      remember any oral communication you had with anybody  
23      regarding the 1982 stock sale which would indicate an NRC  
24      position?

25              THE WITNESS: No.

1 MR. WEISMAN: Did that help?

2 MR. TURK: I don't know.

3 MR. CHARNOFF: I thought it helped. If you want  
4 to establish, for whatever it is worth.

5 MR. TURK: Just so I understand, if I may, this  
6 witness is not aware of any oral communications with the NRC  
7 to anyone at USR Industries suggesting the NRC approved the  
8 1982 sale.

9 MR. CHARNOFF: Prior to 1982?

10 MR. TURK: Prior to, during or after.

11 MR. CHARNOFF: Since 1982 he has received no oral  
12 communication from the NRC on any subject.

13 MR. TURK: So prior or after, were there any  
14 communications, oral communications that suggested the NRC  
15 approved the sale?

16 THE WITNESS: Approved or disapproved? No.

17 MR. CHARNOFF: Does that help? Okay. We are  
18 helping you.

19 MR. WEISMAN: I would like to take a minute break.

20 [Brief recess].

21 BY MR. WEISMAN:

22 Q. My understanding is that Metreal Corporation was  
23 formed in -- and I am sorry to jump around like this, and I  
24 will have to think back -- but my understanding was it was  
25 incorporated in January of '79; is that correct?