

July 20, 2005

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

In the Matter of)	
)	Docket No. 40-8838-MLA-2
U.S. ARMY)	
)	ASLBP No. 04-819-04-MLA
(Jefferson Proving Ground Site))	
)	

NRC STAFF REPORT

INTRODUCTION

Pursuant to the Commission Order dated June 20, 2005, the Staff hereby reports on the steps it plans to take to complete its review of the Jefferson Proving Ground license amendment application.

BACKGROUND

On September 22, 2003, the NRC Staff received a request from the Army for a license amendment that would create a 5-year renewable possession-only license (5-year POLA). On October 28, 2003, the NRC Staff published a Notice of Consideration of Amendment Request for the Jefferson Proving Ground Site and Opportunity for a Hearing in the *Federal Register*. See 68 FR 61471. On November 26, 2003, Save the Valley requested a hearing on the 5-year POLA. On January 7, 2004, the Presiding Officer issued an Order granting Save the Valley's hearing request on the POLA.¹ At the request of Save the Valley, the Order held further proceedings on the hearing in abeyance pending completion of the Staff's technical review of 5-year POLA. See *Id.* at 5. On March 31, 2005, the Presiding Officer

¹ See U.S. Army (Jefferson Proving Ground Site), LBP-04-01, 59 NRC 27 (2004).

referred the matter to the Commission.² On May 25, 2005, the Army submitted a superseding license amendment request for an alternate schedule for decommissioning (alternate schedule request). On June 16, 2005, the Staff accepted the alternate schedule request for review. On June 27, 2005, the Staff published A Notice of Consideration of Amendment Request for an Alternate Decommissioning Schedule and Opportunity to Request a Hearing in the *Federal Register*. See 70 Fed. Reg. 36964. On July 9, 2005, the Army filed "Department of Army Response to Order Dated June 20, 2005." On July 19, 2005, the Army formally withdrew its request for a 5 year POLA and moved to dismiss the proceeding.³

DISCUSSION

1. The 5 year POLA License Amendment Request

The Army submitted an application for a 5-year POLA on September 22, 2003. See 68 Fed. Reg. 61471. On June 16, 2005, the Staff informed the Army that it was discontinuing its review of the 5-year POLA due to the Army's submittal of a superseding license amendment for an alternate schedule. The Army formally withdrew its 5-year POLA request on July 19, 2005 and moved to dismiss the proceeding. The Staff supports the Army motion to dismiss the proceeding. Although the June 20, 2005 Commission Order may have contemplated that the Army's submittal was in support of its original 5-year POLA amendment request, the Staff considered the submittal a superseding request for an alternate schedule. Thus, the Staff has discontinued its review of the 5-year POLA. The Staff, therefore, has no further comments on the sufficiency of information provided by the Army pertaining to the 5-year POLA request.

² See U.S. Army (Jefferson Proving Ground Site), LBP-05-9, 61 NRC 218 (2005).

³ See "Applicant's Motion for Dismissal of Proceeding", dated July 19, 2005.

2. The Alternate Schedule Request

The Army submitted an alternate schedule request on May 25, 2005. This license amendment request was noticed in the *Federal Register* on June 27, 2005 along with an opportunity for a hearing. If the Staff receives a hearing request on the alternate schedule request, the Staff will respond in accordance with 10 C.F.R. § 2.309.⁴

The Staff has scheduled a public meeting with the Army on September 8, 2005 to further discuss the alternate decommissioning schedule request. See Affidavit of Thomas G. McLaughlin (McLaughlin Affidavit) at 2, attached as Exhibit 1. In the letter inviting the Army to the September 8, 2005 meeting, the Staff indicated the areas that it intended to discuss at the meeting. See Letter from Tom G. McLaughlin to Alan Wilson, "Request for a Meeting with the U.S. Nuclear Regulatory Commission to Discuss Any Questions, Comments, and/or Clarifications Regarding the Proposed Field Sampling Plan for Jefferson Proving Ground," dated July 13, 2005, attached as Exhibit 2. The Staff currently anticipates that a common understanding of issues will be achieved at the public meeting. See *McLaughlin Affidavit* at 2. As regards the sufficiency of the Army's May 25, 2005 submittal for purposes of the Staff's review, depending on the quality and completeness of the Army's response to NRC comments, there may not be a need to seek additional information from the Army. See *Id.* The Staff anticipates issuing its safety evaluation report (SER) and environmental assessment (EA) for the alternate schedule request in November, 2005. See *Id.* at 3.

3. Practical Impacts in the event the Staff approves or disapproves the Alternate Schedule Request

In the event the Staff approves the alternate schedule request, the Staff anticipates annual or more frequent meetings with the Army to review the proposed addenda to the Field Sampling Plan and to discuss the progress toward filling in the identified data gaps in the site

⁴To be timely, any request must be filed not later than August 26, 2005.

characterization leading to the submittal of a revised decommissioning plan. *See Id.* at 2. The Staff will review the new decommissioning plan to be submitted by the Army in accordance with the alternate schedule request. *See Id.* at 4. In the event the Staff disapproves the alternate schedule request the Army will be required to decommission in accordance with 10 C.F.R. § 40.42. *See Id.* at 5.

Respectfully Submitted,

/RA/

Sara E. Brock
Counsel for NRC Staff

Dated at Rockville, Maryland
this 20th day of July, 2005

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CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF REPORT" and "AFFIDAVIT OF THOMAS G. MCLAUGHLIN" in the above captioned proceeding have been served on the following through deposit in the Nuclear Regulatory Commission's internal Mail system (as indicated by a single asterisk) or by U.S. Mail, first class, and (as indicated by a double asterisk) by e-mail, this 20th day of July, 2005.

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