

RAS 10294

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED 08/11/05

ATOMIC SAFETY AND LICENSING BOARD

SERVED 08/11/05

Before Administrative Judges:

Lawrence G. McDade, Chairman
E. Roy Hawkens
Dr. Peter S. Lam

In the Matter of

ANDREW SIEMASZKO

Docket No. IA-05-021

ASLBP No. 05-839-02-EA

August 11, 2005

ORDER

(Granting Joint Motion to Modify the Discovery Schedule and Setting New Discovery Schedule)

On August 5, 2005, the NRC Staff and Andrew Siemaszko filed a joint motion to modify portions of the case scheduling order that had been issued by this Board on July 22, 2005.¹ To the degree specified below, we grant the joint motion and modify the case schedule.

The NRC Staff is not required to provide the documents supporting its review of the proposed enforcement action, or to provide any other discovery in this proceeding, prior to September 19, 2005. However, on that date, absent a subsequent Order from this Board, the NRC Staff will produce those documents specified at 10 C.F.R. § 2.336(b). Likewise, parties other than the NRC Staff will make their initial disclosures pursuant to 10 C.F.R. § 2.704(a) on or before September 19, 2005.

Any additional discovery, beyond the mandatory disclosures, must be requested in writing and served on the opposing party via e-mail on or before October 14, 2005. See 10 C.F.R. § 2.705. Responses to additional requests for written discovery will be served by both parties via e-

¹ Joint Request for Reconsideration of the Discovery Schedule (Aug. 5, 2005).

mail on or before November 23, 2005. If either party has any objection to the requested discovery, or concludes that they will need additional time beyond November 23, 2005, to respond to these requests for written discovery, such objections, or requests for an extension of time, must be served on the opposing party via e-mail and filed on or before November 14, 2005. Absent further Order from this Board, all discovery, including the taking of depositions, shall be completed on or before January 17, 2006.

Motions for Summary Disposition, 10 C.F.R. § 2.710, shall be filed on or before February 6, 2006. If either party concludes that they need additional time beyond February 6, 2006, within which to prepare and file a Motion for Summary Disposition, such requests for an extension of time must be served on the opposing party via e-mail and filed no later than January 30, 2006. Absent a modification to this schedule ordered by this Board, written Answers to Motions for Summary Disposition must be served on the opposing party via e-mail and filed no later than twenty (20) days after service of the Motion for Summary Disposition, and any Reply to those Answers, which is permitted pursuant to 10 C.F.R. 2.710, must be served on the opposing party via e-mail and filed no later than ten (10) days after service of the Answer to the Motion for Summary Disposition.

The time and date for a second Prehearing Conference will be set by a subsequent Order of this Board. It is our intent that such a Prehearing Conference be held, via telephone, during the week of March 13, 2006. If, prior to that date, either party concludes that an earlier Prehearing Conference would materially aid in the expeditious and fair resolution of this matter, they should, after conferring with the opposing party, file a motion to request a Prehearing Conference. Such a Motion should include a brief explanation of the matters which the moving party wishes to raise at the proposed Prehearing Conference and an explanation of why, in the moving party's judgment, the expeditious and fair resolution of this proceeding would be materially aided by such a Prehearing Conference. It is the intent of this Board that during the Prehearing Conference to be

held during the week of March 13, 2006, we will hear argument on any unresolved motions, resolve any other matters that may have arisen, establish the procedures for and finalize the scope of the hearing, and set a time and date for the hearing to be held in or near Oak Harbor, Ohio during April 2006, or as soon thereafter as practicable.²

If any party has any objection to any aspect of this Order, that/those objection(s) must be filed and served on the opposing party via e-mail and filed no later than August 22, 2005.

IT IS SO ORDERED.³

FOR THE ATOMIC SAFETY AND LICENSING BOARD

/RA/

LAWRENCE G. McDADE, Chairman
Administrative Judge

Rockville, Maryland
August 11, 2005

² It is the responsibility of the parties to insure that Mr. Rund, the Board's Law Clerk, has the telephone number at which they can be reached at the time to be set for the March 2006, Prehearing Conference. Mr. Rund's phone number, e-mail address, and mail address have previously been provided to the parties. If either party can not be available for a Prehearing Conference at any time between the hours of 11:00 AM EST and 5:00 PM EST, during the week of March 13, 2006, they must notify this Board, and the opposing party, in writing no later than February 24, 2006, of the times during that week when they would not be available and the reason that they would not be available at those times.

³ Copies of this order were sent this date by Internet e-mail transmission to: (1) Counsel for Mr. Siemaszko, (2) the Union of Concerned Scientists; (3) Ohio Citizen Action; and (4) Counsel for the NRC Staff.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
ANDREW SIEMASZKO) Docket No. IA-05-021
)
)
(Enforcement Action))

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB ORDER (GRANTING JOINT MOTION TO MODIFY THE DISCOVERY SCHEDULE AND SETTING NEW DISCOVERY SCHEDULE) have been served upon the following persons by U.S. mail, first class, or through NRC internal distribution.

Office of Commission Appellate
Adjudication
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Administrative Judge
Lawrence G. McDade, Chair
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Administrative Judge
E. Roy Hawkens
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Administrative Judge
Peter S. Lam
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Sara E. Brock, Esq.
Melissa L. Duffy, Esq.
Office of the General Counsel
Mail Stop - O-15 D21
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Billie Pirner Garde, Esq.
Clifford & Garde
1707 L Street, NW, Suite 500
Washington, DC 20036

[Original signed by Evangeline S. Ngbea]

Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 11th day of August 2005