

RAS 10396

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

DOCKETED 09/01/05

SERVED 09/01/05

Before Administrative Judges:

Lawrence G. McDade, Chairman
Dr. Paul B. Abramson
Dr. Richard E. Wardwell

In the Matter of

USEC, Inc.

(American Centrifuge Plant)

Docket No. 70-7004-ML

ASLBP No. 05-838-01-ML

August 31, 2005

MEMORANDUM

(Status Report)

Before the Board are two petitions to intervene related to the application of USEC, Inc., (USEC) for authorization to possess and use source, byproduct, and special nuclear material in order to enrich natural uranium to a maximum of ten percent uranium-235 (U^{235}) by the gas centrifuge process. USEC proposes to do this at a facility – denominated the American Centrifuge Plant (ACP) – to be constructed near Piketon, Ohio. These Petitions were filed by the Portsmouth/Piketon Residents for Environmental Safety (PRESS),¹ a public interest group representing the interests of various individuals who live in close proximity to the proposed ACP, and Geoffrey Sea (Sea),² an individual who is the owner of, and a resident in, a private structure which is adjacent to the ACP. Both Petitions to Intervene were filed on February 28, 2005.

¹ Petition to Intervene by Portsmouth/Piketon Residents for Environmental Safety and Security (PRESS) (Feb. 28, 2005).

² Petition to Intervene by Geoffrey Sea (Feb. 28, 2005).

On May 12, 2005, the Commission determined that both petitioners had standing to intervene in this proceeding, and referred their petitions to the Board for a determination of whether either, or both, of the petitioners have presented one or more admissible contentions.³ On May 17, 2005, this Board was established.⁴

After a review of the pleadings submitted by the Petitioners, USEC, and the NRC Staff, the Board conducted a Prehearing Conference to hear oral argument on the admissibility of contentions. Due to scheduling conflicts among the litigants and the members of the Board, we were not able to hold the Prehearing Conference until July 19, 2005. At the Prehearing Conference, Petitioner Geoffrey Sea stated that he would soon be filing Amended Contentions based on information that had not previously been available. Mr. Sea's Amended Contentions were not submitted until August 17, 2005.⁵ Responses to Mr. Sea's Amended Contentions were submitted by USEC and the NRC Staff on August 29, 2005.⁶ Additionally, exhibits referred to in Mr. Sea's Amended Contentions were received by the Board on August 30, 2005.

Relative to the milestone for contention admission set forth by the Commission, CLI-04-30, 60 NRC 426, 433 (2004), the Board concluded that it would be most efficient to deal with all contention admission matters that are before it, including the Amended Contentions of Mr. Sea, in a single decision, rather than issuing a series of orders.

³ CLI-05-11, 61 NRC 309, 310 (2005).

⁴ 70 Fed. Reg. 29,544 (May 23, 2005).

⁵ Amended Contentions of Geoffrey Sea (Aug.17, 2005).

⁶ USEC Inc. Answer to Geoffrey Sea Motion for Leave to Supplement Replies and Amended Contentions (Aug. 29, 2005); NRC Staff's Response to Geoffrey Sea's Motion to Supplement Replies and Amended Contentions (Aug. 29, 2005).

We anticipate that our ruling on the admissibility of contentions will be issued during September 2005.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD:⁷

/RA/

LAWRENCE G. McDADE, Chairman
Administrative Judge

Rockville, Maryland
August 31, 2005

⁷ Copies of this order were sent this date by Internet e-mail transmission to: (1) Donald Silverman, Counsel for USEC, (2) the NRC Staff, (3) Geoffrey Sea, and (4) Vinna Colley/Ewan Todd, Representatives of PRESS.

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB MEMORANDUM (STATUS REPORT) 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
Paul B. Abramson
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

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

Marian L. Zobler, Esq.
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

Donald J. Silverman, Esq.
Morgan, Lewis & Bockius, LLP
1111 Pennsylvania Avenue, NW
Washington, DC 20005

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LB MEMORANDUM (STATUS REPORT)

Dennis J. Scott, Esq.
USEC Inc.
6903 Rockledge Drive
Bethesda, MD 20817

Ewan Todd
403 E. Oakland Avenue
Columbus, OH 43202

Vina K. Colley
Portsmouth/Piketon Residents for
Environmental Safety and Security (PRESS)
3706 McDermott pond Creek
McDermott, OH 45652

Geoffrey Sea
1832 Wakefield Mound Road
Piketon, OH 45661

[Original signed by Evangeline S. Ngbea]

Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 1st day of September 2005