

September 9, 2005

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE PRESIDING OFFICER

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 AND ARMY JOINT RESPONSE TO  
PRESIDING OFFICER'S AUGUST 29, 2005 ORDER

INTRODUCTION

In the course of the August 24, 2005 telephone conference on the Army's motion to dismiss the above captioned proceeding, the Presiding Officer directed counsel for the U.S. Army (Army) and the NRC Staff (Staff) to provide a brief joint report discussing access to the Jefferson Proving Ground (JPG) site as compared to access at a nuclear power plant awaiting decommissioning in the SAFSTOR mode. On August 29, 2005, the Presiding Officer issued an Order clarifying the Board's intent and stating that the report should not disclose any sensitive information. The Staff and the Army's joint response follows.

DISCUSSION

Physical security at reactor sites, including those at which the reactor is being decommissioned and is in SAFSTOR, is, in broad terms, governed by 10 C.F.R. §§ 73.1 and 73.55 (and, perhaps, 73.51, depending on how spent fuel is stored at the site). As well as establishing a Design Basis Threat, the provisions required call for a comprehensive plan and physical protection and security measures commensurate with the potential hazard associated with a reactor facility. In addition, the Commission issued an order to all decommissioning power reactor licensees on August 18, 2004 that outlines additional security requirements.

69 Fed. Reg. 52736 (Aug. 27, 2004). Although the order itself is publicly available and was published in the *Federal Register*, the security measures to be implemented by licensees under the order are included in a separate attachment, and constitutes safeguards information which is not publicly available.

Because of the fundamental difference in the radiological hazard associated with the licensed material at the JPG site (i.e., the site contains depleted uranium rather than spent fuel), activities and related security measures are very different from either an operating reactor or a decommissioning reactor in SAFSTOR. Security at the JPG site must meet the requirements of 10 C.F.R. Part 20 Subpart I by controlling and monitoring licensed material and by securing such material from unauthorized removal or access. The JPG site has a security plan to ensure compliance with Subpart I. JPG Security Plan, Dec. 10, 2003 (ADAMS No. ML033650261). The security plan also protects the public from dangers associated with the presence of unexploded ordnance (UXO) on the site. Under the plan, physical barriers have been put in place to protect against trespass. These barriers include: (1) a chain link perimeter fence topped with barbed wire around the impact area north of the firing line, including the depleted uranium area; (2) locking and barricading all roads approaching the depleted uranium area in the impact area north of the firing range; and (3) posting signs warning against both unexploded ordnance and radiation hazards on the fence and along the roads leading to the depleted uranium area. The site is also monitored for trespassers under the plan. The sheriffs counties whose jurisdiction overlap with the site conduct routine, random patrols on the property. In addition, the U.S. Fish and Wildlife Service, the Indiana Department of Natural Resources, and the Army caretaker staff regularly patrol the site. Should the need arise for further patrols, the Indiana State Police has access to the site.

CONCLUSION

The protective measures in place at the JPG site reflect the level of radiological hazard associated with the licensed material at the site.

Respectfully submitted,

*/RA/*

Margaret J. Bupp  
Counsel for NRC Staff

*/RA/*

Frederick P. Kopp  
Counsel for the Army

Dated at Rockville, Maryland  
this 9<sup>th</sup> day of September, 2005

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	)	

NOTICE OF APPEARANCE

Notice is hereby given that the undersigned attorney herewith enters an appearance in the above-captioned matter. In accordance with 10 C.F.R. § 2.314(b), the following information is provided:

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Respectfully submitted,

*/RA/*

Margaret J. Bupp  
Counsel for NRC Staff

Dated at Rockville, Maryland  
this 9<sup>th</sup> day of September, 2005

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CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF AND ARMY JOINT RESPONSE TO PRESIDING OFFICER'S AUGUST 29, 2005 ORDER" and "NOTICE OF APPEARANCE" for Margaret J. Bupp 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 9<sup>th</sup> day of September, 2005.

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