

November 21, 2005

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

|                              |   |                     |
|------------------------------|---|---------------------|
| In the Matter of             | ) |                     |
|                              | ) |                     |
| PA'INA HAWAII, LLC           | ) | Docket No. 30-36974 |
|                              | ) |                     |
| Material License Application | ) | ASLBP No. 06-843-01 |
|                              | ) |                     |

NRC STAFF RESPONSE TO  
BOARD ORDER OF NOVEMBER 16, 2005

INTRODUCTION

On November 16, 2005, the Board issued an Order ("Order") directing the NRC Staff ("Staff") to provide the Board with a copy of Attachment 2 of the Irradiator Security Order Compensatory Measures ("Security Order")<sup>1</sup> and to have a safeguard security expert review the November 9, 2005 version of the Staff's proposed protective order to ensure it complies with applicable agency regulations and requirements. This filing constitutes the staffs response to that Order.

DISCUSSION

The Staff had prepared the November 9, 2005 filing in consultation with members of the Office of Nuclear Security and Incident Response (NSIR). Nevertheless, as directed by the Board, NSIR's Information Security Section was specifically requested to verify the completeness of the filing and proposed Protective Order as regards applicable agency regulations and requirements. That review confirmed that, in the context of the motion and

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<sup>1</sup> Attachment 2 of the Security Order, which contains Safeguards Information-Modified Handling (SGI-M), is attached to the Board's copy of this Response. Per the Board's instruction, it has been omitted from the copies of the Response served on the other parties and on the Secretary of the Commission.

attached draft Protective Order, the necessary information for handling, storage, and transmission of SGI-M is referenced. However, to assure that explanatory information included in the motion is understood as applying to the draft Protective Order itself, a minor edit to footnote 4 of the Protective Order should be added to incorporate a direct reference to Attachment 3 of the Security Order, which was referenced in the motion. Footnote 4 should read in its entirety: "Counsel are responsible for determining what measures are necessary to assure that protected information is kept in a secure place such that no distribution of protected information to unauthorized individuals will occur. Attachment 3 of the Irradiator Security Order Compensatory Measures (69 Fed. Reg. 35458, June 13, 2003) provides detailed instructions on appropriate requirements for handling, storing, and transmitting the information in the application marked SGI-M to assure such information is adequately protected."

#### CONCLUSION

With the minor clarifying edit above, the proposed Protective Order identifies the appropriate handling, storage, and transmission requirements for the redacted information in the application.

Respectfully submitted,

*/RA/*

Margaret J. Bupp  
Counsel for NRC Staff

Dated at Rockville, Maryland  
this 21<sup>st</sup> day of November, 2005

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CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF RESPONSE TO BOARD ORDER OF NOVEMBER 16, 2005" in the above-captioned proceedings have been served on the following by deposit in the United States mail; through deposit in the Nuclear Regulatory Commission's internal system as indicated by an asterisk (\*), and by electronic mail as indicated by a double asterisk (\*\*) on this 21<sup>st</sup> day of November, 2005.

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