

RAS 10787

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

DOCKETED 12/02/05

SERVED 12/02/05

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-EA

ASLBP No. 05-839-02-EA

December 2, 2005

ORDER
(Scheduling Prehearing Conference)

On September 29, 2005, this Board granted a Motion filed by the NRC Staff in which it had requested that this proceeding be stayed until November 30, 2005. That Motion was the second request for a stay that had been filed by the NRC Staff and granted by this Board. That stay has now expired.

Although the stay it requested has expired, the NRC Staff has neither requested another stay nor has it provided to Mr. Siemaszko the information specified in 10 C.F.R. § 2.336(b). Instead, in a six line pleading filed on December 1, 2005, the NRC Staff stated that it “anticipates filing an additional stay request within the next week.”

Accordingly, the Board directs that no later than 5:00 PM, EST December 7, 2005, the NRC Staff either produce the Section 2.336(b) materials to Mr. Siemaszko or, in the alternative, file any additional Motion. If an additional request for a stay is filed, responses will be considered if they are filed by 5:00 PM, EST, December 14, 2005.

The Board will hold a Prehearing Conference via telephone on December 15, 2005 at 12:30 PM, EST to hear oral argument on any pending motions and, if appropriate, set a schedule for the resolution of this proceeding.

Given that Mr. Siemaszko's request for a hearing was granted more than six months ago on May 19, 2005, given also that Section 2.336(b) directs that "the NRC staff shall, within thirty (30) days of the issuance of the order granting a request for hearing . . . and without further order or request from any party" provide discovery materials, and finally given that the stay granted in this proceeding has expired, the NRC Staff should be prepared to *immediately* provide the Section 2.336(b) materials in the event that an additional stay is not granted. See 10 C.F.R. § 2.336(e).

On or before 4:00 PM EST, on December 12, 2005, counsel for each of the parties shall contact Karen S. Valloch at (301) 415-7405 to obtain the telephone number and pass code for the conference call. To assure that the conference commences promptly at the scheduled time, all participants should access the conference a few minutes before 12:30 PM EST on December 15, 2005.

IT IS SO ORDERED.¹

FOR THE ATOMIC SAFETY
AND LICENSING BOARD:

/RA/
LAWRENCE G. McDADE, Chairman
Administrative Judge

Rockville, Maryland
December 2, 2005

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

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 (SCHEDULING PREHEARING CONFERENCE) 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 Hawken
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.
Steven C. Hamrick, Esq.
Office of the General Counsel
Mail Stop - O-15 D21
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Billie Pirner Garde, Esq.
John M. Clifford, 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 2nd day of December 2005