

December 30, 2005

Mr. James Salsman
1117 Woodland Avenue
Menlo Park, CA 94025

SUBJECT: DIRECTOR'S DECISION UNDER 10 CFR 2.206

Dear Mr. Salsman:

This letter responds to the petition you filed with the Executive Director for Operations pursuant to Section 2.206 of Title 10 of the *Code of Federal Regulations* (10 CFR 2.206), on April 3, 2005, as supplemented on April 26, 2005 and May 4, 2005. In your petition, you requested that the U.S. Nuclear Regulatory Commission (NRC) take immediate action to correct the alleged misconduct of NRC depleted uranium (DU) munition licensees, for the protection of the health and safety of people and the environment.

On May 26, 2005, the NRC staff acknowledged receiving your petition and, pursuant to 10 CFR 2.206, referred the petition to me for action. You were told that the petition would be acted on within a reasonable time. You were also told that the request for immediate modification of licenses was denied because there was no apparent immediate threat to public health and safety from continued operations of the DU munition licensees.

You met with the petition review board on May 10, 2005, via teleconference, to clarify the bases for your petition. The transcript of this meeting was treated as a supplement to the petition and made available in the Agencywide Document Access and Management System (ADAMS) for inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, and from the ADAMS Public Library component on NRC's Web site, <http://www.nrc.gov> (the Public Electronic Reading Room). The transcript Accession Number is ML051390187.

By letter dated June 10, 2005, the NRC staff notified the Departments of the Air Force, Army, and Navy, and ATK Tactical Systems Company, LLC, that a petition had been filed that involved their licenses. The correspondence also informed the licensees that they could respond to the petition if they desired. The Departments of the Air Force, Army, and Navy responded on July 5, 2005, July 25, 2005, and July 18, 2005, respectively, and the staff considered this information in its evaluation of the petition.

In your petition you stated, among other things, that licensees never detected hexavalent uranium trioxide (UO_3) and never recognized or assumed it was both hazardous and a product of combustion of DU munitions. The staff determined that you did not show that DU munition licensees ignored relevant information addressing the use of DU munitions, or that licensed activities have created a condition hazardous to public health and safety or to the environment.

The staff sent a copy of the proposed Director's Decision to you and to the Departments of the Air Force, Army, and Navy, and ATK Tactical Systems Company, LLC, for comment, on September 22, 2005. You responded with comments on October 19, 2005, and the licensees responded on October 12, 2005 (Army), and October 17, 2005 (Air Force). The comments and the staff's response to them are included in the Director's Decision.

The Director's Decision consolidated your requests into eight petition summary items, including requests to: (1) require licensees document individuals' exposures to hexavalent UO_3 ; (2) find willful licensee negligence; (3) find that the Commission would not have issued a license had the true risk of pyrophoric uranium munitions been known; (4) find that a licensee made false statements to the Commission; (5) find that a licensee submitted invalid studies; (6) order studies of risk to public health and safety from pyrophoric uranium munition combustion products; (7) order DU licensees to determine the best, safest, and most effective medical therapies for uranium poison victims and the best remediation of sites where munitions were burned or combustion products reached groundwater; and (8) modify licenses and fine licensees appropriately for the above listed finding and violations. The staff's response in the Director's Decision documents that it considered each of these items and concluded that the Petitioner did not show that DU munition licensees ignored relevant information addressing the use of DU munitions, or that licensed activities have created conditions hazardous to public health and safety or to the environment. In addition, the staff did not identify any violations of NRC requirements by DU munitions licensees involving their making false statements or submitting invalid studies.

A copy of the Director's Decision (DD-05-08) will be filed with the Secretary of the Commission, for the Commission, to review in accordance with 10 CFR 2.206(c). As provided for by this regulation, the decision will constitute the final action of the Commission 25 days after the date of the decision unless the Commission, on its own motion, institutes a review of the decision within that time. The documents cited in the enclosed decision are available in ADAMS for inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, and from the ADAMS Public Library component on NRC's Web site, <http://www.nrc.gov> (the Public Electronic Reading Room). The ADAMS accession numbers for these documents are contained in the Director's Decision.

I have also enclosed a copy of the notice of "Issuance of the Director's Decision under 10 CFR 2.206" that has been filed with the Office of the Federal Register, for publication.

J. Salsman

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I would like to thank you for your efforts in bringing these issues to NRC's attention.

Please contact Joseph E. DeCicco at (301) 415-7833, to discuss any questions about this petition.

Sincerely,

/RA/

Jack R. Strosnider, Director
Office of Nuclear Material Safety
and Safeguards

Docket Nos. 040-06394, 040-07086
040-08814, 040-08838
040-07354, 040-08779
040-08767, 040-08850
030-29462, 030-28641

Enclosures: As stated (2)

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Sincerely,

/RA by Robert C. Pierson Acting For/

Jack R. Strosnider, Director
Office of Nuclear Material Safety
and Safeguards

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