

RAS 10881

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

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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 22, 2005

MEMORANDUM AND OMNIBUS ORDER

(Granting Discretionary Intervention Status to Union of Concerned Scientists)
(Clarifying the Scope of this Proceeding)
(Granting NRC Staff's Motion for a Stay)
(Scheduling a Prehearing Conference)

Introduction

Presently before the Board are a number of preliminary matters that are ripe for resolution. Specifically, we have determined that the Union of Concerned Scientists and Ohio Citizen Action (UCS/OCA) have established the prerequisites to be granted discretionary intervention status. Further, we have determined that the Enforcement Order by which this proceeding was generated adequately alleges a violation of 10 C.F.R. § 50.5(a)(2). Finally, we have granted the additional stay that was requested by the NRC Staff, and set the next prehearing conference for February 1, 2005.

Discretionary Intervention Status

On May 13, 2005, two public interest groups, the Union of Concerned Scientists and Ohio Citizen Action, sought to intervene in the Siemaszko enforcement action.¹ Finding that

¹ UCS/OCA Request for Hearing and Petition to Intervene (May 13, 2005) [hereinafter UCS/OCA Petition].

UCS/OCA lacked standing within the meaning of 10 C.F.R. § 2.309(d), the Board denied the Petition to Intervene, but sought additional briefing on the appropriateness of granting UCS/OCA “discretionary intervention” status pursuant to 10 C.F.R. § 2.309(e).² The NRC Staff opposed the granting of discretionary intervention to UCS/OCA³ but Mr. Siemaszko and UCS/OCA both strongly urged that discretionary intervention status be granted.⁴

Having fully considered UCS/OCA’s initial petition and all the additional briefing, we grant discretionary intervention status to UCS/OCA because we have concluded that the Petitioners can “meaningfully contribute to the development of a sound record on contested matters”⁵ and that by admitting UCS/OCA into this proceeding we will not “inappropriately broaden or delay the proceeding.”⁶ More specifically, we find that, upon balancing all of the factors relevant to discretionary intervention which are set out at 10 C.F.R. § 2.309(e), it is appropriate to exercise our discretion and allow the intervention of UCS/OCA in this proceeding.

In our view, UCS/OCA has adequately explained its legitimate interest in this proceeding as required by 10 C.F.R. § 2.309(e)(1)(ii). In its initial petition filed on May 13, 2005, UCS/OCA explained that it is “a nonprofit partnership of scientists and citizens combining rigorous scientific analysis, innovative policy development, and effective citizen advocacy to achieve

² Licensing Board Memorandum and Order (Denying UCS/OCS Petition to Intervene) (Aug. 2, 2005) (unpublished).

³ NRC Staff Reply – Discretionary Intervention (Aug. 29, 2005).

⁴ Response of UCS/OCA – Discretionary Intervention (Aug. 12, 2005); Reply of Andrew Siemaszko - Discretionary Intervention (Aug. 29, 2005) [hereinafter Siemaszko Reply – Intervention].

⁵ 69 Fed. Reg. 2182, 2201 (Jan 14, 2004).

⁶ Id.

practical environmental solutions”⁷ and that it has “long sought consistent enforcement of the Commission’s regulations.”⁸ Petitioners have also adequately explained possible adverse effects that this proceeding could have on interests which they have long championed, as required by 10 C.F.R. § 2.309(e)(1)(iii). Specifically, in its initial petition UCS/OCA noted, among other things, that misguided enforcement actions have the very real potential for undermining worker and public confidence in the NRC’s oversight capability.⁹ Primarily, however, our decision to grant discretionary intervention status to UCS/OCA is based on our conclusion that they will, without question, meaningfully contribute to the development of a sound record on contested matters.¹⁰

Our conclusion regarding the ability of the Petitioners to assist in the development of a

⁷ UCS/OCA Petition at 1. This Board has concluded that UCS/OCA, in its initial petition, adequately met its obligations under 10 C.F.R. § 2.309(e). However, to the degree it may be argued that the UCS/OCA initial petition was inadequate because the request for discretionary intervention was ambiguous, we note that the initial petition to intervene was prepared by two scientifically oriented public interest groups, not by a law firm. While a totally deficient pro se pleading may not be accepted, petitioners such as UCS/OCA are not held to the same pleading standards to which law firms may be required to adhere. Therefore, even if the initial petition had some technical shortcomings as a request for discretionary intervention, which we do not believe that it did, we would nevertheless grant discretionary intervention because, given Petitioners technical expertise and broad experience with NRC regulatory matters, we are convinced that UCS/OCA will meaningfully contribute to the development of a sound record on contested matters in this proceeding.

This policy of reading pro se petitions liberally has been paraphrased in numerous cases issued by the Licensing Board, see e.g., International Uranium (USA) Corp. (Source Material License Amendment), LBP-01-08, 53 NRC 204, 207-08 (2001); the Appeals Board, see e.g., Florida Power and Light Co. (St. Lucie Nuclear Power Plant, Unit 1), ALAB-921, 30 NRC 177, 181 (1989); and the Commission, see, e.g., Shieldalloy Metallurgical Corp. (Cambridge, Ohio Facility), CLI-99-12, 49 NRC 347, 354 (1999).

⁸ UCS/OCA Petition at 1.

⁹ Id. at 4.

¹⁰ 10 C.F.R. § 2.309(e)(1)(i). “[P]ast case law and Commission policy make it clear that foremost among the factors in favor of granting discretionary intervention is whether the petitioner will assist in developing a sound record.” 69 Fed. Reg. 2182, 2201 (Jan. 14, 2004).

complete record in this proceeding is based on the totality of our experience to date with the UCS/OCA. Based on Petitioners' written submissions in this proceeding and their oral presentations at our prehearing conferences, we have concluded that Petitioners are extremely knowledgeable in the factual, scientific, and regulatory areas that will be the focus of our hearings in this matter. Further, UCS/OCA's broad experience with Commission proceedings stands in marked contrast with the circumstances of Mr. Siemaszko, a private individual with no previous experience with NRC enforcement proceedings, who is being represented in this matter pro bono by a small law firm with limited resources.¹¹ As articulated by Mr. Siemaszko, it is reasonable to assume that the Davis-Besse investigation has been one of the most rigorous and extensive ever conducted by the NRC, and that representatives of the UCS/OCA have immersed themselves in the facts of this incident to a degree that would be impossible for Mr. Siemaszko to duplicate. We agree with Mr. Siemaszko that he simply lacks the knowledge and experience of the Petitioners.¹² Accordingly, we conclude that the involvement of UCS/OCA in this proceeding will provide an invaluable contribution to the development of a sound record upon which this Board will evaluate the charges that have been levied against Mr. Siemaszko.

Finally, in balancing the factors for and against discretionary intervention, we have concluded that Petitioners have sufficiently explained why their interests would not be adequately represented by the other parties, that there do not exist other means of serving Petitioners' interests that will be as efficient as admitting them to this proceeding, and that the issues to be resolved in this proceeding will not be broadened, nor will their resolution be delayed, by admitting UCS/OCA as a party to this proceeding.¹³

¹¹ Siemaszko Reply – Intervention at 2.

¹² Id.

¹³ See 10 C.F.R. § 2.309(e)(2)(i)-(iii).

Scope of the Proceeding - Elements of Proof

To insure that all the parties to this litigation would be moving forward with the same understanding of the scope of the proceeding, this Board issued a preliminary order articulating its understanding of the relevant factual and legal issues in this case.¹⁴ Based on our initial reading of the NRC Staff's Order Prohibiting Involvement in NRC-Licensed Activities (Enforcement Order),¹⁵ we viewed the NRC Staff as alleging a violation of 10 C.F.R. § 50.5(a)(1).¹⁶ Thus, in describing the scope of the proceeding, inter alia, we stated:

More specifically, the NRC Staff must prove that, in preparing CR No. 2000-1037 and Work Order No. 00-001846-000, Mr. Siemaszko intentionally provided an incomplete and inaccurate description of the work activities and corrective actions taken relative to the presence of boric acid deposits on the RPV head knowing that by doing so he would cause FENOCO to be in violation of NRC Regulations.¹⁷

The NRC Staff disagreed with this characterization of the scope of the proceeding and argued that it should not be required to prove that Mr. Siemaszko provided inaccurate or

¹⁴ Licensing Board Memorandum and Order (Granting the NRC Staff's Motion for a 120-Day Delay of Proceedings and Setting Case Schedule)(July 22, 2005) at 1-2 (unpublished).

¹⁵ 70 Fed. Reg. 22,719 (May 2, 2005) [hereinafter Enforcement Order].

¹⁶ In relevant part, Section 50.5(a)(1) states that an employee of a licensee may not "[e]ngage in deliberate misconduct that causes . . . a licensee . . . be in violation of any rule, regulation, or order." Although "deliberate misconduct" is the title of Section 50.5, as used in paragraph (a)(1), "deliberate misconduct" is defined in relevant part as "an intentional act or omission that the person knows . . . [w]ould cause a licensee or applicant to be in violation of any rule, regulation, or order." 10 C.F.R. § 50.5(c).

¹⁷ Although the Enforcement Order did not explicitly specify whether Mr. Siemaszko was being charged with violating 10 C.F.R. § 50.5(a)(1), there was language that suggested the NRC Staff was charging Mr. Siemaszko with a violation of Section 50.5(a)(1). For example, the Enforcement Order states that "the NRC determined that Mr. Andrew Siemaszko engaged in deliberate misconduct that caused the Licensee to be in violation of the NRC requirement to maintain and provide to the NRC materially complete and accurate information, 10 CFR 50.9." Enforcement Order – 70 Fed. Reg. at 22,720.

incomplete information that he knew would cause a licensee to violate NRC regulations.¹⁸ Instead, the NRC Staff maintained¹⁹ that it should only be required to prove that Mr. Siemaszko intentionally provided inaccurate or incomplete information in violation of 10 C.F.R. § 50.5(a)(2).²⁰

The NRC Staff concedes that its “Enforcement Order does not specifically state whether it alleges a violation of 10 C.F.R. § 50.5(a)(1) or 10 C.F.R. § 50.5(a)(2).”²¹ Nonetheless, according to the NRC Staff the language of the Enforcement Order – that Mr. Siemaszko “engaged in deliberate misconduct that has caused the Licensee to be in violation of 10 CFR 50.9 by deliberately providing to the Licensee information that he knew to be incomplete or inaccurate in a respect material to the NRC, in violation of 10 CFR 50.5”²² – constitutes an allegation of a Section 50.5(a)(2) violation.²³ The NRC Staff further asserts the reference to the violation of NRC regulations does not create an allegation of a Section 50.5(a)(1) violation, but merely “demonstrate[s] the significance and materiality of the information.”²⁴ Finally, the NRC Staff suggests that the use of the phrase “deliberate misconduct” is a reference to the title of

¹⁸ NRC Staff Partial Objection to July 22, 2005 Memorandum and Order “Granting the NRC Staff’s Motion” (Aug. 5, 2005) at 3 [hereinafter NRC Staff Partial Objection].

¹⁹ NRC Staff Response to Board Order Requesting Further Briefing Regarding the Scope of this Proceeding (Aug. 24, 2005) at 3 [hereinafter NRC Staff Response].

²⁰ In relevant part, Section 50.5(a)(2) states that an employee of a licensee may not “[d]eliberately submit to . . . a licensee . . . information that the person submitting the information knows to be incomplete or inaccurate in some respect material to the NRC.”

²¹ NRC Staff Response at 3.

²² Enforcement Order – 70 Fed. Reg. at 22,721. See also id. (“Mr. Siemaszko deliberately provided materially incomplete and inaccurate information in CR No. 2000-1037 and Work Order No. 00-001846-000, that are records the NRC requires the Licensee to maintain.”).

²³ NRC Staff Response at 3.

²⁴ Id.

Section 50.5, rather than to the regulatory definition of that phrase found in Section 50.5(c), which references Section 50.5(a)(1).²⁵

Mr. Siemaszko argues that the Enforcement Order does not specify a violation of Section 50.5(a)(1) or (a)(2).²⁶ Instead, according to Mr. Siemaszko, the Enforcement Order attempts to concoct a “new violation, created by the Staff out of whole cloth” by “join[ing] the two violations in an unholy union”²⁷ and that by conflating the elements of Section 50.5(a)(1) and (a)(2), the Enforcement Order “failed to specify a viable basis for Board jurisdiction.”²⁸ Mr. Siemaszko further argues that, under the Commission’s stringent pleading requirements, the failure to present a specific charge is a fatal jurisdictional flaw.²⁹ Alternatively, assuming there is jurisdiction, Mr. Siemaszko asserts that the Enforcement Order should only be read to allege a Section 50.5(a)(1) violation because the phrase “deliberate misconduct” is used in the enforcement order and is clearly defined in the regulations.³⁰ Mr. Siemaszko argues that because the NRC Staff conflated the elements of Section 50.5(a)(1) and (a)(2), it should be required to prove Mr. Siemaszko had knowledge that the information is incomplete or inaccurate in a manner material to the NRC and knowledge that the submission would cause

²⁵ See id. at 3 n.1; NRC Staff Partial Objection at 3-5.

²⁶ Andrew Siemaszko’s Reply to Board Order, and Staff Response, Regarding the Scope of this Proceeding (Aug. 31, 2005) at 3-4 [hereinafter Siemaszko Reply].

²⁷ Id. at 3-5. The Enforcement Order appears to conflate the elements of Section 50.5(a)(1) with the elements of Section 50.5(a)(2) by alleging that Mr. Siemaszko “engaged in deliberate misconduct that has caused the Licensee to be in violation of 10 CFR 50.9 by deliberately providing to the Licensee information that he knew to be incomplete or inaccurate in a respect material to the NRC, in violation of 10 CFR 50.5.” Enforcement Order – 70 Fed. Reg. at 22,721.

²⁸ Siemaszko Reply at 4.

²⁹ Id.

³⁰ Id. at 6.

the licensee to be in violation of the regulations.³¹

Under long accepted principles of administrative law, “notice pleading” is the general rule, requiring only that a pleading notify the parties of the legal authority, the basic issues, and the key facts alleged.³² Amendments to administrative complaints are generally freely allowed, and an agency may clarify the original pleading, so long as the party had a reasonable opportunity to be heard on the issues.³³

Under the NRC’s rules of practice, however, mere “notice pleading” does not suffice. For example, in Tennessee Valley Authority (Watts Bar Nuclear Plant, Unit 1; Sequoyah Nuclear Plant, Units 1 and 2; Browns Ferry Nuclear Plant, Units 1, 2, and 3), CLI-04-24, 60 NRC 160, 203 (2004), the Commission held that in NRC enforcement adjudications the scope of the proceeding is limited by the NRC Staff’s enforcement order.

TVA was a civil penalty case in which the Licensing Board considered additional factual bases for a license violation which were not identified in the NRC Staff’s Notice of Violation.³⁴ On appeal to the Commission, the NRC Staff argued that while it could not change the underlying theory of its case, it should be allowed to supplement the factual bases supporting a violation when new facts are discovered.³⁵ The Commission rejected this argument and held that the NRC Staff cannot include entirely new bases in its arguments and briefs because that

³¹ Id. at 5-6.

³² See 5 U.S.C. § 554(b) (2005); Citizens State Bank of Marshfield, Missouri v. FDIC, 751 F.2d 209, 213 (8th Cir. 1984) (administrative pleadings are treated like civil pleadings, rather than common law indictments, and the test is whether the private party understood the issues and the pleadings were sufficient to afford a full opportunity to meet the charges).

³³ See, e.g., National Engineering & Contracting Co. v. Herman, 181 F.3d 715, 720-721 (6th Cir. 1999); Abercrombie v. Clarke, 920 F.2d 1351, 1360 (7th Cir. 1990).

³⁴ TVA, CLI-04-24, 60 NRC at 200.

³⁵ Id. at 203-05.

would take the proceeding beyond the Board's permissible jurisdictional boundaries set forth in the enforcement order.

The instant case is distinguishable from TVA. In this case, the NRC Staff is not seeking to introduce a new theory or new factual bases, nor is it seeking to add new regulatory violations. Though the Enforcement Order is not a model of clarity, it does indicate that 10 C.F.R. § 50.5 is the regulatory provision that Mr. Siemaszko is charged with violating, and the language of the Enforcement Order does allege a Section 50.5(a)(2) violation.³⁶ The absence of a specific citation to paragraph (a)(2) creates some ambiguity as to the charge; however, the Enforcement Order expressly alleges that "Mr. Siemaszko deliberately provided materially incomplete and inaccurate information in CR No. 2000-1037 and Work Order No. 00-001846-000, that are records the NRC requires the Licensee to maintain."³⁷ This language closely tracks the relevant regulatory language of Section 50.5(a)(2), which states that an employee of a licensee may not "[d]eliberately submit to . . . a licensee . . . information that the person submitting the information knows to be incomplete or inaccurate in some respect material to the NRC." Citation to the relevant regulatory provision and use of the key regulatory language in the Enforcement Order satisfies the NRC Staff's pleading requirements. Therefore, we conclude that the Enforcement Order alleges a violation of 10 C.F.R. § 50.5(a)(2).

It appears that the NRC Staff's Enforcement Order might also have alleged a violation of 10 C.F.R. § 50.5(a)(1) because it twice states that Mr. Siemaszko engaged in "deliberate misconduct,"³⁸ a term used in Section 50.5(a)(1) and defined in Section 50.5(c). Regardless of

³⁶ Enforcement Order – 70 Fed. Reg. at 22,721 ("Mr. Andrew Siemaszko . . . engaged in deliberate misconduct that has caused the Licensee to be in violation of 10 CFR 50.9 by deliberately providing to the Licensee information that he knew to be incomplete or inaccurate in a respect material to the NRC, in violation of 10 CFR 50.5.") (emphasis added).

³⁷ Enforcement Order – 70 Fed. Reg. at 22,721.

³⁸ Id. at 22,720.

the NRC Staff's original intent and the language used in the Enforcement Order, the NRC Staff no longer views the Enforcement Order as alleging a violation of Section 50.5(a)(1).³⁹ Accordingly, to the extent that the Enforcement Order may have alleged a violation of Section 50.5(a)(1), we find that allegation has been withdrawn.

Therefore, in order to sustain the suspension order, we hold that the NRC Staff must prove Mr. Siemaszko deliberately provided information to a licensee which he knew to be incomplete or inaccurate in a respect material to the NRC, in violation of 10 C.F.R. § 50.5(a)(2).

NRC Staff's Motion for a Stay of this Proceeding Until February 1, 2006.

The NRC Staff has requested a further delay in these proceedings until February 1, 2006.⁴⁰ In support of this most recent request for a stay, the NRC Staff – relying on representations made to it by the Department of Justice – has advised that, within the time period requested for this additional stay, events will occur which will materially change the environment within which this enforcement action must be considered.

Such representations have been made to this Board by the NRC Staff at least twice before in this proceeding in the context of the Staff seeking stays, which we granted. Disappointingly, these representations have proved to be wrong.⁴¹ Nevertheless, at this point the end date for the NRC Staff's pending request for a stay is only 40 days from the present. Accordingly, it is the consensus of the Board, albeit not a unanimous consensus, that the requested stay should be granted. The reasoning underlying our decision to grant this further

³⁹ See NRC Staff Response at 3.

⁴⁰ This Board has previously granted stays that had been requested by the Staff in orders dated on May 25, 2005, July 22, 2005, and September 29, 2005.

⁴¹ As a result, one member of this Board has concluded that it is no longer prudent to rely on time projections proffered by the Department of Justice in this matter because all of the time projections offered to date have been significantly off the mark and because the reasons given for subsequent delays have been standard occurrences that were clearly predictable by all but the most inexperienced prosecutor.

request for a short stay is fully explained in our Opinion dated September 29, 2005, and need not be repeated here. Likewise, the reasons why the Board's consensus on this issue is not unanimous is fully explained in the dissent accompanying that Order and need not be repeated here.

In granting this short stay, however, we direct that the NRC Staff file a status report with this Board on or before January 23, 2006. We also direct that any additional request for a stay of these proceedings by the NRC Staff be filed on or before that date.⁴² Finally, we direct, in the event any further stay is requested by the NRC Staff without the concurrence of Mr. Siemaszko, that the Staff expressly and specifically address the questions initially raised in the Board's Opinion of September 29, 2005,⁴³ and further elaborated upon through the Board's questioning of Staff counsel at the Status Conference on December 15, 2005.

As we read Oncology Services Corp., CLI-93-17, 38 NRC 44, 50-60 (1993), it is the burden of the NRC Staff in seeking a stay to demonstrate that the requested delay is necessary in order not to jeopardize a criminal prosecution. It is not proper to shift the burden to Mr. Siemaszko to prove the contrary. Accordingly, we advise the Staff and the Department of Justice that conclusory representations, to the effect that moving forward with this enforcement proceeding will jeopardize a potential criminal proceeding, will not be adequate to secure any additional stay.

In the Memorandum of Understanding between the NRC and the Department of Justice regarding the coordination of enforcement activities between the two agencies it is noted that "it may be appropriate in some cases for the NRC to stay its hand pending a criminal

⁴² Objections or other replies to such additional motions will be considered if they are received by the Board on or before January 30, 2006.

⁴³ See Licensing Board Memorandum and Order (Sept. 29, 2005) at 11-12 (unpublished). See also the cases cited therein.

prosecution.”⁴⁴ If an additional stay is to be successfully sought, the NRC Staff must explain how, on the facts of this case, some aspect of our proceeding could facilitate witness intimidation, perjury, or the manufacture of evidence.⁴⁵ In short, it must demonstrate that – given all relevant factors – this is a case where it is appropriate for the NRC proceeding to be stayed pending a criminal prosecution.

Prior to requesting any additional stay, the NRC Staff is urged to consult with the Department of Justice so that it will be able to explain, in detail, exactly how this proceeding could jeopardize any pending criminal case. We expect that the Staff will proffer facts and apply those facts to the theories on which it will rely. We expect to receive analysis, not generalities.

Status Conference

Absent being notified of a conflict by one or more of the parties on or before December 30, 2005, and/or further Order from the Board, we will hold a Status Conference on February 1, 2006, at 2:00 PM, EST to hear oral argument on any motions then pending and, if appropriate, to set a schedule for the resolution of this proceeding. Details regarding the logistical specifics for that conference (i.e., via telephone or in person, etc.) will be finalized after consultation with the parties.

⁴⁴ 53 Fed. Reg. 50,317, 50,318 (Dec. 14, 1988) (emphasis added).

⁴⁵ See Founding Church of Scientology, Inc. v. Kelley, 77 F. R. D. 378, 380-81 (D.D.C. 1977). See also Nakash v. Dep’t of Justice, 708 F. Supp. 1354, 1365-66 (S.D.N.Y. 1988); United States v. Hugo Key & Son, Inc., 672 F. Supp. 656, 658 (D.R.I. 1987).

In accordance with the provisions of 10 C.F.R. § 2.311, any appeal to the Commission from this Memorandum and Order must be filed within ten (10) days after it is served.

IT IS SO ORDERED.⁴⁶

THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

Lawrence G. McDade
ADMINISTRATIVE JUDGE

/RA by Lawrence G. McDade Acting For/

E. Roy Hawkens
ADMINISTRATIVE JUDGE

/RA by Lawrence G. McDade Acting For/

Peter S. Lam
ADMINISTRATIVE JUDGE

Rockville, Maryland
December 22, 2005

⁴⁶ 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 MEMORANDUM AND OMNIBUS ORDER (GRANTING DISCRETIONARY INTERVENTION STATUS TO UNION OF CONCERNED SCIENTISTS, CLARIFYING THE SCOPE OF THIS PROCEEDING, GRANTING NRC STAFF'S MOTION FOR A STAY, SCHEDULING A PREHEARING CONFERENCE) have been served upon the following persons by U.S. mail, first class, or through NRC internal distribution.

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Washington, DC 20555-0001

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[Original signed by Evangeline S. Ngbea]

Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 22nd day of December 2005