

January 17, 2006

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 PETITIONER'S
RESPONSE TO BOARD ORDER OF DECEMBER 22, 2005

INTRODUCTION

In its December 22, 2005 Order, the Board in the above-captioned proceeding directed the NRC Staff ("Staff") to file a brief description of the Safeguards Information-Modified Handling ("SGI-M") redacted from the byproduct materials license application submitted by Pa'ina Hawaii ("Pa'ina"). The Board further directed the petitioners, Concerned Citizens of Honolulu ("Concerned Citizens"), to inform the Board whether, based on the Staff's description, Concerned Citizens sought access to the redacted SGI-M. On January 11, 2005, Concerned Citizens informed the Board that, based on the Staff's description of the redacted SGI-M, they are unable to discern whether or not it will continue to seek access to the redacted SGI-M. The Staff responds to Concerned Citizens' January 11, 2005 filing below.

DISCUSSION

As stated in the Staff's response to the Board's Order, the Staff has provided as much information as possible in its description of the redacted SGI-M. Further details would reveal the protected information itself, contrary to the explicit direction of the Board's Order. However, the Staff can respond to Concerned Citizens' questions over whether the information in question may be relevant to specific contentions. Concerned Citizens has speculated that the

information may be relevant to contentions regarding accidents associated with loading or unloading the Cobalt-60 pencils for the proposed irradiator; accidents involving prolonged loss of activity, breaks in the helium or compressed air lines; risks from hurricanes, tsunamis or other natural phenomena; risks of aviation accidents; risks of transportation accidents; or the Staff's determination not to prepare an environmental impact statement or environmental assessment. The redacted information is not relevant to any of these contentions, as evidenced by repeated statements that the information is related to security measures. Concerned Citizens further states that "the redacted material likely relates to its contentions related to terrorism", specifically to contentions regarding protection of the proposed irradiator against terrorist attacks and protection of sources in transit from terrorist attacks. This information is not relevant to either contention. With regard to protection of sources in transit, Pa'ina has made no representation in the application that it intends to transport the Cobalt-60 pencils to the irradiator itself. Therefore, it follows that there is no need to include information related to protection of sources in transit in the application. With regard to protection of the proposed irradiator against terrorist attacks, the Staff does not believe that the redacted information is relevant to the issues at hand. As stated in the Staff's January 6, 2005 Response to the Board's Order, the redacted SGI-M is related to how the Pa'ina irradiator facility may, if licensed, implement any compensatory measures similar to those delineated in Attachment 2 to the earlier Compensatory Measures Order to panoramic and underwater irradiators authorized to possess greater than 10,000 curies of byproduct material in the form of sealed sources.¹ As the Board has stated, at this time, such an order has not been issued to Pa'ina and cannot be used as the baseline for the Staff to evaluate Pa'ina's application. Therefore, the information is

¹ See, "In the Matter of All Panoramic and Underwater Irradiators Authorized to Possess Greater than 370 TerraBecquerels (10,000 Curies) of Byproduct Material in the Form of Sealed Sources; Order Imposing Compensatory Measures," 68 Fed. Reg. 35,458 (June 13, 2003).

irrelevant to this licensing proceeding, including Concerned Citizens' contention related to security.

CONCLUSION

As discussed above, although the Staff cannot provide further details of the redacted SGI-M without revealing the contents of the SGI-M, the Staff can state that the SGI-M is not related to the areas raised by Concerned Citizens in its January 11, 2006 filing.

Respectfully submitted,

/RA/

Margaret J. Bupp
Counsel for NRC Staff

Dated at Rockville, Maryland
this 17th day of January, 2006

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NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
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PA'INA HAWAII, LLC) Docket No. 30-36974-ML
)
(Honolulu, Hawaii Irradiator))
)

CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF RESPONSE TO PETITIONER'S RESPONSE TO BOARD ORDER OF DECEMBER 22, 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 17th day of January, 2006.

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