

April 20, 2006

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	IA-05-021
)	
ANDREW SIEMASZKO)	ASLBP No. 05-839-02-EA
)	

NRC STAFF STATUS REPORT

The Atomic Safety and Licensing Board issued an Order dated April 6, 2006 directing the Staff to file a status report by April 20, 2006, responding to five questions posed by the Board in that Order. The Board's questions and the Staff's answers are set forth below. To answer the Board's questions, the Staff consulted Prosecutors Richard Poole and Thomas Ballantine of the U.S. Department of Justice (DOJ) as cited below.

Question 1: Given the variance between the content of the Joint Motion and the Order issued by the Magistrate Judge, is May 24, 2006, the date on which Motions are to be filed in the criminal proceeding or, alternatively, is May 24th merely the date of a status conference at which a Motions schedule will be set?

Answer: Although the March 24, 2006 Joint Motion requested a status conference on May 24, 2006, the Magistrate's March 28, 2006 Order only extended the motion filing deadline. Neither a date nor an agenda for a scheduling conference was set by the Magistrate's March 28 Order. Mr. Ballantine called the deputy clerk of court in Toledo on April 7, 2006 and confirmed that the Magistrate's Order only pushed back the motions deadline and that no status conference was set by the March 28, 2006 Order. The defendants may request an extension of the May 24 motion filing deadline. The government does not anticipate that it will request an extension, but is unlikely to oppose an extension of time if requested by the defendants.

Source: Conversation with Messrs. Poole and Ballantine, April 18, 2006.

Question 2: If May 24, 2006, is the date on which Motions are due, what is the briefing schedule for those Motions? Specifically, when will replies and responses be due and when will oral argument on those motions be held? If those dates have not been determined, when will they be determined?

Answer: As far as DOJ Attorneys are aware, there is no briefing schedule on the motions. DOJ Attorneys do not know when replies to motions will be due or when oral arguments on motions will occur, however, the briefing schedule will likely be set after motions are filed. Source: Conversation with Messrs. Poole and Ballantine April 18, 2006.

Question 3: If May 24, 2006 is merely the date of a status conference, has the agenda for that conference been determined? If so, provide the agenda and, if not, when will the agenda be determined?

Answer: Neither a date nor an agenda for a status conference has been set, but a date could be set at any time. Generally there is no set agenda for status conferences; parties are free to raise issues. Source: Conversation with Messrs. Poole and Ballantine April 18, 2006.

Question 4: Has a trial date been determined and if not, when will it be set? If those dates are unknown at this time, provide government counsel's best estimate of (a) when a firm trial date will be set, (b) when government counsel believes that this case will be scheduled for trial, and (c) the estimated duration of the trial.

Answer: A trial date has not been set. Source: Conversation with Messrs. Poole and Ballantine, April 18, 2006.

(a) DOJ does not know when a trial date will be set. Based upon his conversation with the deputy clerk of court in Toledo on April 7, 2006, Mr. Ballantine understands that trial dates are usually set in the following fashion: (1) at some point, after motions are filed, the prosecution (usually) requests a trial date; (2) there is then a conference call with the judge and all the parties to set a trial date. Source: Conversation with Messrs. Poole and Ballantine, April 18, 2006.

(b) & (c) DOJ cannot estimate when a trial date will be set. A typical case of this complexity would have a trial date set in approximately 6 months and the trial would last approximately six weeks. Source: Conversation with Messrs. Poole and Ballantine, April 18, 2006.

Question 5: Is the Government aware of any other information that may shed light on the likely schedule for the criminal proceeding? If so, provide that additional information.

Answer: There will likely be further delays the duration of which DOJ attorneys cannot predict. DOJ attorneys anticipate that they will be better able to assess when a trial will take place once motions have been filed. Source: Conversation with Messrs. Poole and Ballantine April 18, 2006.

Respectfully submitted,

/RA by Mary C. Baty/

Mary C. Baty
Sara E. Brock
Counsel for NRC Staff

Dated at Rockville, Maryland
this 20th day of April, 2006

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CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF STATUS REPORT" in the above captioned proceeding have been served on the following persons by deposit in the United States mail; through deposit in the Nuclear Regulatory Commission internal mail system as indicated by an asterisk (*); and by electronic mail as indicated by a double asterisk (**) on this 20th day of April, 2006.

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-2-

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