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DOCKETED
USNRC

May 30, 2006 (8:50am)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

May 26, 2006

Office of the Secretary
U.S. Nuclear Regulatory Commission
ATTN: Rulemakings and Adjudication Staff
Washington, DC 20555-0001
Also Via E-Mail: HEARING DOCKET@nrc.gov

Re: Docket No. 030-36974
ASLBP No. 06-843-01-ML
Request To Strike "Intervenor
Concerned Citizens Of Honolulu's
Reply To Applicant Pa'ina Hawaii,
LLC's Opposition To Motion For
Leave To Amend Safety Contentions
#4 And #6" filed May 17, 2006.

Dear Secretary:

I represent the legal interests of Pa'ina Hawaii, LLC, which has applied for a Materials License. We have noted the following chronology:

1. On May 1, 2006 Concerned Citizens of Honolulu filed its "Intervenor Concerned Citizens Of Honolulu's Motion For Leave To Amend Safety Contentions #4 and #6."

2. On May 10, 2006 my client filed its "Applicant Pa'ina Hawaii, LLC's Opposition To Intervenor Concerned Citizens Of Honolulu's Motion For Leave To Amend Safety Contentions #4 and #6."

3. Thereafter on May 17, 2006, Concerned Citizens of Honolulu filed a "Intervenor Concerned Citizens Of Honolulu's Reply To Applicant Pa'ina Hawaii, LLC's Opposition To Motion For Leave To Amend Safety Contentions #4 And #6."

However, as to Item #3 above, my office did not receive any motion for leave to file any reply, which motion for leave to

reply is required by 10 C.F.R. Sec. 2.323(c). I am unaware if the Secretary, Assistant Secretary, or the Presiding Officer ever granted permission for Concerned Citizens to file a reply. My office never received any order granting such permission. Moreover, there are no "compelling circumstances" warranting such a filing.

Could you please check the records and files of this case. If no motion for leave to reply was ever filed by Concerned Citizens of Honolulu, and no order granting such leave was ever signed or filed, could your Office please strike the May 17th Reply filed by Concerned Citizens of Honolulu? Or, in the alternative, could you please bring this to the attention of the Presiding Officer in order to get the filing stricken?

If you have any questions or comments, please feel free to contact my office. Tel: 808-523-5083; Fax: 808-523-5085; e-mail: fpbenco@yahoo.com. Thank you very much.

Very respectfully yours,



Fred Paul Benco

cc: All parties on Certificate of Service

CERTIFICATE OF SERVICE

I hereby certify that copies of the "LETTER TO SECRETARY DATED MAY 26, 2006" in the captioned proceeding have been served as shown below by deposit in the regular United States mail, first class, postage prepaid, this 26th day of May, 2006. Additional service has also been made this same day by electronic mail as shown below:

Administrative Judge
Thomas S. Moore, Chair
Atomic Safety and Licensing Board
Mail Stop: T-3-F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
(e-mail: tsm2@nrc.gov)

Dr. Anthony J. Baratta
Administrative Judge
Atomic Safety and Licensing Board
Mail Stop-T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
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Margaret J. Bupp
U.S. Nuclear Regulatory Commission
Office of the General Counsel
Mail Stop - O-15 D21
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Administrative Judge
Dr. Paul B. Abramson
Atomic Safety and
Licensing Board
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DATED: Honolulu, Hawaii, May 26, 2006



FRED PAUL BENCO
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Pa'ina Hawaii, LLC