

RAS 11771

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

DOCKETED 06/14/06

SERVED 06/14/06

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

June 14, 2006

ORDER

(Directing Supplemental Briefing on the Subject of Discretionary Intervention)

On December 22, 2005, this Board issued a Memorandum and Order granting discretionary intervention in this proceeding to the Union of Concerned Scientists and Ohio Citizen Action (collectively UCS/OCA).¹ The Nuclear Regulatory Commission (NRC) Staff appealed this decision.² On June 2, 2006, the Commission issued a Memorandum and Order vacating the discretionary intervention portion of the December 22 order and remanding the discretionary intervention issue, including the issue of whether UCS/OCA submitted an admissible contention, to this Board for reconsideration.³ On June 9, 2006, this Board issued an

¹ Licensing Board Memorandum and Order (Granting Discretionary Intervention Status to Union of Concerned Scientists) (Dec. 22, 2005) (unpublished).

² NRC Staff's Notice of Appeal of Licensing Board Order of December 22, 2005 and Accompanying Brief (Jan. 3, 2006).

³ In the Matter of Andrew Siemaszko (Enforcement Action), CLI-06-16, 63 NRC __ (June 2, 2006).

order inquiring whether UCS/OCA still wished to participate as a party in this proceeding,⁴ and UCS/OCA answered in the affirmative.⁵

Accordingly, this Board directs the parties to submit supplemental briefs that address how the discretionary intervention standards articulated in the Commission's recent order should be applied to the facts in this case. Additionally, UCS/UCA shall indicate which of the submitted contentions it wishes to litigate in this proceeding. UCS/UCA shall file its brief no later than June 26, 2006. Mr. Siemaszko and the NRC Staff shall file their responses no later than July 7, 2006. The briefs shall not exceed fifteen (15) pages in length.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD⁶

/RA by E. Roy Hawkens for:/

Lawrence G. McDade
ADMINISTRATIVE JUDGE

Rockville, Maryland

June 14, 2006

⁴ Licensing Board Order (Requesting Position of Union of Concerned Scientists On Discretionary Intervention) (June 9, 2006) (unpublished).

⁵ UCS/OCA Response to Order of June 9, 2006 (June 9, 2006).

⁶ Copies of this memorandum and 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

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ANDREW SIEMASZKO) Docket No. IA-05-021
)
)
(Enforcement Action))

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB ORDER (DIRECTING SUPPLEMENTAL BRIEFING ON THE SUBJECT OF DISCRETIONARY INTERVENTION) have been served upon the following persons by U.S. mail, first class, or through NRC internal distribution.

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Docket No. IA-05-021
LB ORDER (DIRECTING SUPPLEMENTAL BRIEFING ON
THE SUBJECT OF DISCRETIONARY INTERVENTION)

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[Original signed by Evangeline S. Ngbea]

Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 14th day of June 2006