

January 24, 2007

Administrative Judge  
Alan S. Rosenthal, Chairman  
Atomic Safety and Licensing Board Panel  
Mail Stop: T-3F23  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

Administrative Judge  
Paul B. Abramson  
Atomic Safety and Licensing Board Panel  
Mail Stop: T-3F23  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

Administrative Judge  
Richard F. Cole  
Atomic Safety and Licensing Board Panel  
Mail Stop T-3 F23  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

In the Matter of  
U.S. Army  
(Jefferson Proving Ground Site)  
Docket No. 40-8838-MLA; ASLBP No. 00-776-04-MLA

Dear Administrative Judges:

On January 23, 2006, the staff of the Nuclear Regulatory Commission notified, pursuant to 10 C.F.R. § 2.1203(a), the Licensing Board and the parties that a hearing file had been created for this proceeding. Attached to the Staff's notification was the Affidavit of Thomas G. McLaughlin. It has since come to the Staff's attention that there was an error in Mr. McLaughlin's affidavit in paragraph 5. Accordingly, the Staff is providing the Board and the parties with a copy of Mr. McLaughlin's Affidavit, with the correction to paragraph 5.

The Staff regrets any inconvenience this may have caused.

Sincerely,

*/RA/*

Marian L. Zabler  
Counsel for NRC Staff

Enclosure: Affidavit of Thomas G. McLaughlin

cc: Service List



than 180 days, e-mails I sent before November 16, 2005, were purged from my computer. At that time, I thought my sent e-mails were being automatically archived but only appointments sent by me were. I was informed by the agency's Office of Information Services that these e-mails are not recoverable. I have since taken action to ensure that relevant e-mails have been retained. Any response to my e-mails that I received were archived. Thus, it is my belief that most of my initial e-mails were captured and retained in the e-mail thread associated with my initial e-mail and have been identified either in the hearing file index, or in the attached privilege log.

4. As the attached Affidavit from Jon Peckenpaugh indicates, Mr. Peckenpaugh reviewed the hydrology and risk assessment of the Army's Field Sampling Plan beginning in June 2005. Mr. Peckenpaugh did not take adequate action to preserve relevant e-mails that he may have sent or received in support of his review of the Army's application. Thus, as a result of the agency's routine system maintenance, e-mails sent or received by Mr. Peckenpaugh before July 2006, were purged from his computer. Mr. Peckenpaugh has since taken action to ensure that all relevant e-mails are retained. It is Mr. Peckenpaugh's belief, however, that many of his e-mails were retained either by the sender or recipient and have been identified either in the hearing file index, or in the attached privilege log.

5. As the attached Affidavit from Kenneth Kalman indicates, Mr. Kalman also did not take adequate action to preserve relevant e-mails that he may have sent or received in support of the Staff's review of the Army's application. Mr. Kalman served as Acting Project

Manager from June 4, 2006 until October 14, 2006. Thus, as a result of the agency's routine system maintenance, e-mails sent or received by Mr. Kalman from June 4, 2006 until July 2006, were purged from his computer. It is Mr. Kalman's belief, however, that many of his e-mails from June 4 until July 2006 were retained either by the sender or recipient and have been identified either in the hearing file index, or in the attached privilege log.

6. As the attached Affidavit from David Nelson indicates, Mr. Nelson reviewed the health and safety aspects of the Army's Field Sampling Plan beginning in June 2005. Mr. Nelson did not take adequate action to preserve relevant e-mails that he may have sent or received in support of his review of the Army's application. Thus, as a result of the agency's routine system maintenance, e-mails sent or received by Mr. Nelson from September 2005 to July 2006 were purged from his computer. Mr. Nelson has since taken action to ensure that all relevant e-mails are retained. It is Mr. Nelson's belief, however, that many of his e-mails were retained either by the sender or recipient and have been identified either in the hearing file index, or in the attached privilege log.

7. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

Original signed by

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Thomas G. McLaughlin

Executed in Rockville, MD  
this 23rd day of January, 2007