

January 25, 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, 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

January 23, 2007

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
U.S. ARMY) Docket No. 40-8838-MLA
(Jefferson Proving Ground Site))

AFFIDAVIT OF THOMAS G. MCLAUGHLIN CONCERNING MANDATORY DISCLOSURE
REQUIREMENT OF 10 C.F.R. § 2.336(c)

I, Thomas G. McLaughlin, do hereby state as follows:

1. I am employed as a Project Manager in the Division of Waste Management and Environmental Protection in the Nuclear Regulatory Commission's ("NRC") Office of Federal and State Materials and Environmental Management Programs. I serve as Project Manager for the U.S. Army's application for an amendment to license SUB-1435 (Docket No. 040-08838) proposing an alternate schedule for the submission of a decommissioning plan for Jefferson Proving Ground, Madison, Indiana.

2. I hereby certify that, except as discussed below, all relevant materials required to be disclosed pursuant to 10 C.F.R. § 2.336 (b) and (c) in the above-captioned proceeding have been disclosed, and that the disclosures are accurate and complete as of the date of this certification. Some relevant material may not be available as a result of the agency's routine network maintenance.

3. During the course of my review of the Army's application, I sent and received e-mails. I manually archived all e-mails sent to me in support of any review of the Army's application and these are preserved. However, I did not take adequate action to preserve relevant e-mails that I sent in support of my review of the Army's application. Thus, as a result of the agency's routine system maintenance which includes a periodic purge of all e-mails older

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/

Thomas G. McLaughlin

Executed in Rockville, MD
this 25th day of January, 2007

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
U.S. ARMY) Docket No. 40-8838-MLA
(Jefferson Proving Ground Site))
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CERTIFICATE OF SERVICE

I hereby certify that copies of the letter providing a corrected affidavit in the above captioned proceeding have been served on the following by electronic mail with copies deposited in the Nuclear Regulatory Commission's internal mail system as indicated by a single asterisk or by U.S. Mail, first class, as indicated by a double asterisk by e-mail, this 25th day of January 2007.

Alan S. Rosenthal, Esq., Chair *
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/RA/

Marian L. Zabler
Counsel for the NRC Staff