



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

May 9, 2007

OFFICE OF THE
GENERAL COUNSEL

Thomas S. Moore
Administrative Judge
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Anthony J. Baratta
Administrative Judge
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Paul Abramson
Administrative Judge
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

In the Matter of
PA'INA HAWAII, LLC
(Honolulu, Hawaii Irradiator Facility)
Docket No. 30-36974-ML; ASLBP No. 06-843-01-ML

Dear Administrative Judges:

Pursuant to 10 C.F.R. §§ 2.336 and 2.1203, enclosed please find an update to the Staff's hearing file index in the above-captioned proceeding, along with an affidavit from Matthew Blevins dated today, May 9, 2007, an affidavit from Scott Flanders, Acting Director, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs, attesting to the predecisional nature of the documents included in this update, and an original signed copy of Leonard Wert's affidavit concerning the Staff's April 17, 2007 update to the hearing file index.

Sincerely,

A handwritten signature in black ink that reads "Margaret J. Bupp".

Margaret J. Bupp
Counsel for the NRC Staff

Enclosures: As stated

cc w/encls: David L. Henkin
Fred Paul Benco
Jered Lindsay

Michael Kohn
Office of the Secretary

Office of Commission
Appellate Adjudication

Pa'ina Hawaii, LLC
Docket No. 30-36974; ASLBP No. 06-843-01
Hearing File Index Update 05/9/2007
Pre-Decisional Documents

Privilege	ADAMS ML Number	Full Name	Date
Pre-Decisional	ML071150121	Michael Kohn Letter re: Final Environmental Assessment for Proposed Pa'ina Hawaii, LLC Irradiator (Draft, Version 1)	04/24/07
Pre-Decisional	ML071150121	Michael Kohn Letter re: Final Environmental Assessment for Proposed Pa'ina Hawaii, LLC Irradiator (Draft, Version 2)	04/25/07
Pre-Decisional	ML071150121	Michael Kohn Letter re: Final Environmental Assessment for Proposed Pa'ina Hawaii, LLC Irradiator (Draft, Version 3)	04/26/07
Pre-Decisional	ML071150121	Michael Kohn Letter re: Final Environmental Assessment for Proposed Pa'ina Hawaii, LLC Irradiator (Draft, Version 4)	04/26/07
Pre-Decisional	ML071150121	Michael Kohn Letter re: Final Environmental Assessment for Proposed Pa'ina Hawaii, LLC Irradiator (Draft, Version 5)	04/27/07
Pre-Decisional	ML071150121	Michael Kohn Letter re: Final Environmental Assessment for Proposed Pa'ina Hawaii, LLC Irradiator (Draft, Version 6)	05/01/07
Pre-Decisional	ML071150121	Michael Kohn Letter re: Final Environmental Assessment for Proposed Pa'ina Hawaii, LLC Irradiator (Draft, Version 7)	05/04/07

Privilege	ADAMS ML Number	Full Name	Date
Pre-Decisional	ML071210508	Mike Lesar Memo re: Notice of Availabilty and Finding of No Significant Impact for Pa'ina Hawaii, LLC, Proposed Irradiator in Honolulu, Hawaii (Draft, Version 1)	05/01/07
Pre-Decisional	ML071210508	Mike Lesar Memo re: Notice of Availabilty and Finding of No Significant Impact for Pa'ina Hawaii, LLC, Proposed Irradiator in Honolulu, Hawaii (Draft, Version 2)	05/01/07
Pre-Decisional	ML071210508	Mike Lesar Memo re: Notice of Availabilty and Finding of No Significant Impact for Pa'ina Hawaii, LLC, Proposed Irradiator in Honolulu, Hawaii (Draft, Version 3)	05/02/07
Pre-Decisional	ML071210508	Mike Lesar Memo re: Notice of Availabilty and Finding of No Significant Impact for Pa'ina Hawaii, LLC, Proposed Irradiator in Honolulu, Hawaii (Draft, Version 4)	05/04/07

May 9, 2007

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	
PA'INA HAWAII, LLC)	Docket No. 30-36974
)	
Material License Application)	ASLBP No. 06-843-01

AFFIDAVIT OF MATTHEW BLEVINS

I, Matthew Blevins, do hereby state as follows:

1. I am employed as the Project Manager overseeing the preparation of the environmental assessment related to the Pa'ina Hawaii, LLC application for a license for possession and use of byproduct material in the Environmental Review Branch, Environmental Protection and Performance Assessment Directorate, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs, in the Nuclear Regulatory Commission
2. I hereby certify that all relevant materials required to be disclosed pursuant to 10 C.F.R. § 2.336(b) and (d) in the above-captioned proceeding have been disclosed, and that the disclosures are accurate and complete as of the date of this certification.
3. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.



Matthew Blevins

Executed in Rockville, MD
This 9th day of May, 2007

May 9, 2007

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	
PA'INA HAWAII, LLC)	Docket No. 30-36974
)	
Material License Application)	ASLBP No. 06-843-01

AFFIDAVIT OF SCOTT C. FLANDERS

I, Scott C. Flanders, do hereby state as follows:

1. I am employed as the Acting Director, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs, in the Nuclear Regulatory Commission. My supervisory responsibilities include oversight of the NRC Staff's preparation of the environmental assessment (EA) related to the Pa'ina Hawaii, LLC ("Pa'ina") application for possession and use of byproduct materials.

2. As part of their responsibilities in compiling and updating the Hearing File for this proceeding, NRC Staff members under my supervision identified certain documents as privileged because they contained information concerning the NRC's pre-decisional deliberative process. Those documents are listed in Enclosure 1 to the May 9, 2007, Hearing File Update in this proceeding.

3. I have personally reviewed each of the documents identified as privileged in Enclosure 2 to the May 8, 2006, Hearing File Update in this proceeding, and have determined, in accordance with the guidance contained in NRC Management Directive 3.4, that they contain pre-decisional information concerning the Staffs review of the Pa'ina application. All documents contain either the Staff's analyses, recommendations, opinions, or evaluations, and may not

necessarily reflect the final agency position with respect to the matters discussed therein. In addition, each of these documents comprises part of the deliberative process necessary to the Staff's review of the pending Pa'ina application.

4. Further, I have determined that disclosure of the documents identified in Enclosure 1 to the May 9, 2007, Hearing File Update could result in harm to the agency, in that it would (a) prematurely disclose the preliminary views of individual Staff members and/or the Staff prior to reaching a final agency decision, and could thus create confusion as to the actual policy or views of the NRC Staff; (b) hinder the efficiency of the Staff, in that forced disclosure of their internal discussions on an unresolved issue would serve to chill all future deliberations and would interfere with our ability to engage in a free exchange of opinions and analyses prior to publishing our final review documents; and (c) imply or suggest incorrectly that the opinions of the Staff members involved in these communications are actually the final decisions of the agency, while no such final decision has yet been made.

5. Accordingly, I have determined that the pre-decisional deliberative process privilege should be invoked with respect to each of the documents listed in Enclosure 2 to the Staff's May 8, 2006, Hearing File update in this proceeding.

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



Scott C. Flanders

Executed in Rockville, MD
This 9th day of May, 2007

April 17, 2007

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

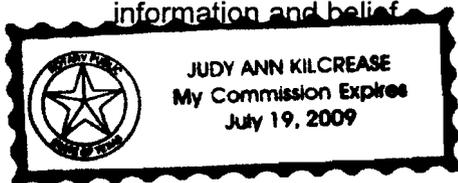
In the Matter of)	
)	
PA'INA HAWAII, LLC)	Docket No. 30-36974
)	
Material License Application)	ASLBP No. 06-843-01

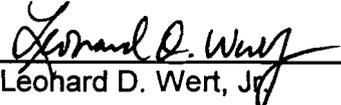
AFFIDAVIT OF LEONARD D. WERT, JR.

I, Leonard D. Wert, being first duly sworn, do hereby state as follows:

1. I am employed as the Division Director, Division of Nuclear Materials and Safety, Region IV, overseeing the review of the Pa'ina Hawaii, LLC application for a license for possession and use of byproduct material in the Nuclear Regulatory Commission's Region IV office in Arlington, Texas.
2. I hereby certify that all relevant materials required to be disclosed pursuant to 10 C.F.R. § 2.336(b) and (d) in the above-captioned proceeding have been disclosed, and that the disclosures are accurate and complete as of the date of this certification.
3. I hereby certify that the foregoing is true and complete to the best of my knowledge,

information and belief




Leonard D. Wert, Jr.

Executed in Arlington, TX
This 17th day of April, 2007