

May 12, 2008

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 |

JOINT PROPOSED SCHEDULE FOR THE REMAINDER OF THE PROCEEDING

In accordance with the Board's April 29, 2008 Order (Submission of a Joint Proposed Schedule), Pa'ina Hawaii, LLC (Licensee), Concerned Citizens of Honolulu (Intervenor) and the NRC Staff hereby submit a proposed schedule for the remainder of the proceeding. The proposed schedule for the most part incorporates the filing deadlines specified in the NRC's rules for informal hearings in Subpart L of 10 C.F.R. Part 2. However, the proposed schedule also takes into account the possibility that, at the time the Board adopts a schedule, there may be contentions on which either the Commission or the Board has yet to rule. Specifically, the food safety issue raised in the fifth portion of the Intervenor's amended environmental contention 3 is presently before the Commission, and the parties have yet to complete briefing before the Board on the Intervenor's amended safety contention 7. To account for the possibility there may be an extended period of time before either the Commission rules on the food safety issue or the Board rules on amended safety contention 7, the parties have agreed to alternative deadlines for certain filings.

The parties have also included estimated dates for each of the anticipated events in this proceeding. These estimates are predicated on (1) the Commission ruling on the food safety issue and the Board ruling on amended safety contention 7 by Friday, June 13, 2008; and (2) the Board ruling on summary disposition motions within 30 days of the deadline for the parties'

answers to such motions. The parties do not know whether, in light of the Commission's and the Board's schedules, these dates are realistic. The parties have taken the liberty of including estimated dates merely to provide a better sense of the possible timeline in this proceeding.

In its April 29, 2008 Order, the Board also directed the parties to address the form of summary disposition motions and testimony, as well as the location of any oral hearing. The parties agree to the following: (1) motions for summary disposition and responses will take the form of memoranda with, as appropriate, supporting affidavits and exhibits; (2) initial and rebuttal testimony will take the form of written statements of position, testimony in question-and-answer format, and supporting affidavits; and (3) if any issues are not resolved by summary disposition, the oral hearing should be held in Honolulu, Hawaii.

Respectfully submitted,

/RA/

Michael J. Clark
Counsel for the NRC Staff

Dated at Rockville, Maryland
this 12th day of May, 2008

| Pa'ina Hawaii, LLC; Docket No. 030-36974 | |
|--|---|
| Joint Proposed Schedule for the Remainder of the Proceeding | |
| Event | Deadline |
| <ul style="list-style-type: none"> ● Staff submits <i>Vaughn</i> Index in connection with the fourth segment of amended environmental contention 3 ● All parties update their mandatory disclosures as required by 10 CFR 2.336 ● Staff provides any additional updates to the hearing file under 10 CFR 2.1203 | <p>15 days from the later of (1) a final ruling admitting or rejecting the food safety issue, or (2) the Board's ruling on amended safety contention 7. However, with respect to the portions of amended environmental contentions 3 and 4 that, as of this date, have been admitted and are not on review, the deadline for these submittals will be no later than June 20, 2008.</p> <p>Estimated date: June 20, 2008</p> |
| <ul style="list-style-type: none"> ● Motions for summary disposition | <p>37 days from the later of (1) a final ruling admitting or rejecting the food safety issue, or (2) the Board's ruling on amended safety contention 7. However, with respect to the portions of amended environmental contentions 3 and 4 that, as of this date, have been admitted and are not on review, the deadline for submitting summary disposition motions will be no later than July 28, 2008.</p> <p>Estimated date: July 21, 2008</p> |
| <ul style="list-style-type: none"> ● Answers to summary disposition motions | <p>20 days from the deadline for filing the motion to which the answer pertains¹</p> <p>Estimated date: August 11, 2008</p> |
| <ul style="list-style-type: none"> ● Initial written statements of position and written testimony. ● Completion of all mandatory disclosures ● Final updates to the hearing file | <p>40 days from the last-issued Board ruling on motions for summary disposition</p> <p>Estimated date: October 20, 2008</p> |

¹ To ensure adequate time to draft their answers to any summary disposition motions, and to provide for a more definitive schedule, the parties have agreed that the 20-day period should run from the deadline for filing such motions, rather than from the date such motions are served. Likewise, the proposed time periods set forth herein for filing various other responsive documents run from the deadline for filing the pleading that triggers the response, rather than from the date of service.

| | |
|--|--|
| | |
| <ul style="list-style-type: none">• Motions in limine pertaining to initial testimony | 10 days from the deadline for submitting initial testimony Estimated date: October 30, 2008 |
| <ul style="list-style-type: none">• Responses to motions in limine regarding initial testimony | 10 days from the deadline for submitting motions in limine regarding such testimony Estimated date: November 10, 2008 |
| <ul style="list-style-type: none">• Responses to initial testimony and rebuttal testimony• Proposed questions for the Presiding Officer pertaining to initial testimony | 20 days from the deadline for submitting initial statements and testimony Estimated date: November 10, 2008 |
| <ul style="list-style-type: none">• Proposed questions for the Presiding Officer pertaining to rebuttal testimony• Motions in limine regarding rebuttal testimony | 7 days from the deadline for submitting rebuttal testimony Estimated date: November 17, 2008 |
| <ul style="list-style-type: none">• Responses to motions in limine regarding rebuttal testimony | 7 days from the deadline for submitting motions in limine regarding such testimony Estimated date: November 24, 2008 |
| <ul style="list-style-type: none">• Oral hearing in Honolulu, Hawaii | To be determined by the Board, but at least 5 days after the Board's final ruling on any pending pre-hearing motions. ² Estimated dates: Week of December 8–12, 2008 |

² Due to the need to provide the public with advance notice of the hearing and to arrange for witnesses to travel to Honolulu to testify, the parties suggest that the Board establish the hearing date shortly after its last-issued ruling on motions for summary disposition.

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 |

CERTIFICATE OF SERVICE

I hereby certify that copies of "JOINT PROPOSED SCHEDULE FOR THE REMAINDER OF THE PROCEEDING" in the above-captioned proceedings have been served on the following by deposit in the United States mail; through deposit in the Nuclear Regulatory Commission's internal system as indicated by an asterisk (*), and by electronic mail as indicated by a double asterisk (**) on this 12th day of May, 2008.

Administrative Judge * **
Thomas S. Moore, Chair
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Mail Stop: T-3 F23
Washington, D.C. 20555
E-Mail: thomas.moore@nrc.gov

Administrative Judge * **
Anthony J. Baratta
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Mail Stop: T-3 F23
Washington, D.C. 20555
E-Mail: anthony.baratta@nrc.gov

Administrative Judge * **
Paul Abramson
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Mail Stop: T-3 F23
Washington, D.C. 20555
E-Mail: paul.abramson@nrc.gov

Office of Commission Appellate
Adjudication*
U.S. Nuclear Regulatory Commission
Mail Stop: O-16C1
Washington, D.C. 20555
E-Mail: OCAAMAIL.Resource@nrc.gov

Office of the Secretary * **
ATTN: Rulemakings and Adjudication Staff
U.S. Nuclear Regulatory Commission
Mail Stop: O-16C1
Washington, D.C. 20555
E-mail: HEARINGDOCKET@nrc.gov

David L. Henkin, Esq.
Earthjustice
223 South King Street, Suite 400
Honolulu, HI 96813
E-mail: dhenkin@earthjustice.org

Michael Kohn, President
Pa'ina Hawaii, LLC
P.O. Box 30542
Honolulu, HI 96820

Fred Paul Benco **
The Law Offices of Fred Paul Benco
Suite 3409 Century Square
1188 Bishop Street
Honolulu, HI 96813
E-mail: fpbenco@yahoo.com

Lauren Bregman
Johanna Thibault
Atomic Safety and Licensing Board Panel
Mail Stop: T-3F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
E-mail: JJL5@nrc.gov

/RA/

Michael J. Clark
Counsel for the NRC Staff