



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

October 23, 2008

Molly C. Dwyer, Clerk of Court
U. S. Court of Appeals for the Ninth Circuit
95 Seventh Street
Post Office Box 193939
San Francisco, CA 94119-3939

RE: James Salsman v. U.S. NRC, No. 08-74043

Dear Ms. Dwyer:

Enclosed please find, for the case referenced above, respondent U.S. Nuclear Regulatory Commission's Certified Index of Record. I have also enclosed Notices of Appearance of Counsel for myself and John Cordes and an Application and Oath for Admission for myself. Please date stamp the enclosed copy of this letter to indicate date of receipt, and return the copy to me in the enclosed envelope, postage pre-paid, at your convenience.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Max Smith", is written over a horizontal line.

Maxwell C. Smith
Attorney
Office of the General Counsel

Enclosure: As stated

CERTIFICATE OF SERVICE

I hereby certify that on October 23, 2008, copies of the enclosed Certified Index of Record were served by mail, postage prepaid, upon the following:

James Salsman
1910 Mt. Vernon Ct. #3
Mountain View, CA 94040

A handwritten signature in black ink, appearing to read 'Max Smith', written over a horizontal line.

Maxwell C. Smith

Office of the Clerk
UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT
P.O. Box 193939
San Francisco, California 94119-3939

Molly C. Dwyer
Clerk of Court

(415) 355-8000

**NOTICE OF APPEARANCE OF COUNSEL or
RE-ASSIGNMENT OF COUNSEL WITHIN THE SAME OFFICE**

9th Cir. No. 08-74043

Case Name: James Salsman

v. U. S. Nuclear Regulatory Commission

The Clerk will enter my appearance as counsel on behalf of: U. S. Nuclear Regulatory Commission

☐ Appellant ☐ Petitioner ☐ Amicus Curiae

☐ Appellee ☒ Respondent ☐ Intervenor

Lead counsel must be designated if a party is represented by more than one attorney or law firm.

☒ Check if you are lead counsel

☐ (Optional) This case has been re-assigned to me from another attorney in my office
(for ex., the Federal Public Defenders Office, OIL, or a law firm)

I am replacing (name of counsel):

Signature



Date

10/22/2008

Name

Maxwell C. Smith

Address

U. S. Nuclear Regulatory Commission, Office of the General Counsel

Mail Stop 15 D-21

City

Washington

State

DC

Zip Code

20555-0001

Phone Number (for ex., 4153558000)

(301) 415-1246

Office of the Clerk
UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT
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I am replacing (name of counsel):

Signature

Date

Name

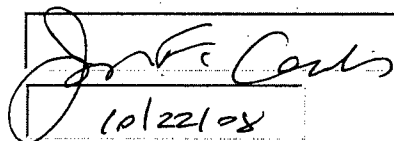
Address

City

State

Zip Code

Phone Number (for ex., 4153558000)



10/22/08

John F. Cordes

U.S. Nuclear Regulatory Commission, Office of the General Counsel

Mail Stop 15 D-21

Washington

D.C.

20555-0001

(301) 415-1600

United States Court of Appeals for the Ninth Circuit

P.O. Box 193939 San Francisco, California 94119-3939

APPLICATION AND OATH FOR ADMISSION

PERSONAL STATEMENT:

Name (Last, First, Middle):

Smith, Maxwell Christopher

Firm Name or Agency:

United States Nuclear Regulatory Commission

Street Address:

11555 Rockville Pike

City:

Rockville

State:

MD

Zip:

20852

Social Security No.:

305-92-0121

Date of Birth:

7/11/1979

Phone:

(301) 415-1246

Fax:

(301) 415-3200

Email Address:

Maxwell.Smith@nrc.gov

Mailing Address if different from above:

United States Nuclear Regulatory Comm., Office of the General Counsel, Mail Stop 15D-21

City:

Washington

State:

DC

Zip:

20555

List the state and federal courts in which you have been admitted to practice and the date you were admitted:

Supreme Court of Virginia, October 31, 2005

Have you ever been disbarred or suspended from practice before any court or government agency? ☐ Yes ☒ No

If so, please attach a detailed answer.

Have you ever received any reprimand from any court or government agency? ☐ Yes ☒ No

If so, please attach a detailed answer.

OATH:

I, Maxwell Christopher Smith, certify under penalty of perjury under the
(Enter name as you want it to appear on your certificate)

laws of the United States of America that the foregoing is true and correct. I do solemnly swear [or affirm] that I will conduct myself as an attorney and counselor of the court, uprightly and according to law; and I will support the Constitution of the United States.

Executed of (date):

10/22/2008

Signature of Applicant:



MOVANT:

I, John F. Cordes, a member in good standing of the Bar
(Enter full name of movant)

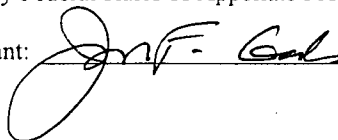
of the United States Court of Appeals for the Ninth Circuit, hereby move the admission of

Maxwell Christopher Smith to the Bar of this Court. I am satisfied
that the applicant possess the qualifications provided by Federal Rules of Appellate Procedure 46(a).

Date:

10/22/08

Signature of Movant:



Street Address:

11555 Rockville Pike

City:

Rockville

State:

MD

Zip:

Phone:

(301) 415-1600

The above form must be completed and returned to the Clerk of the United States Court of Appeals, Post Office Box 193939, San Francisco, CA 94119-3939. The admission fee is \$190.00 payable to "Clerk, U.S. Court of Appeals." Overnight courier services deliver to: 95 Seventh Street, San Francisco, CA 94103-1518.

Important Note: As of October 1, 2006 the admission form does not need to be notarized.
rev. Sept. 2006



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

October 23, 2008

James Salsman
1910 Mt. Vernon Ct. #3
Mountain View, CA 94040

RE: James Salsman v. U.S. NRC, No. 08-74043

Dear Mr. Salsman

Enclosed please find a copy of the U.S. Nuclear Regulatory Commission's Certified Index of Record. I have previously forwarded you a copy of this document via e-mail.

Sincerely,

A handwritten signature in black ink, appearing to read "Maxwell C. Smith", is written over the word "Sincerely,".

Maxwell C. Smith
Attorney
Office of the General Counsel

Enclosure: As stated

I hereby certify that the documents listed and described below constitute the record for the administrative proceedings resulting in the issuance of "James Salsman; Denial of Petition for Rulemaking," Docket No. PRM-20-26, published at 73 Fed. Reg. 43381 (July 25, 2008), the decision that is the subject of the Petition for Review in this case.



Respectfully submitted,

A handwritten signature in black ink, appearing to read "Annette Vietti-Cook", written over a horizontal line.

Annette L. Vietti-Cook
Secretary of the Commission

Dated at Rockville, Maryland
This 22 day of October 2008

CERTIFIED INDEX OF THE RECORD

JAMES SALSMAN v. U.S. NUCLEAR REGULATORY COMMISSION

DOCKET NO. 08-74043

NRC DOCKET NO. PRM-20-26

Wednesday, October 22, 2008

ID NUMBER	SUBMITTER	REPRESENTING	DOCUMENT DATE	DESCRIPTION	ACCESSION NUMBER	
1	JAMES	SALSMAN	05/09/2005	PETITION FOR RULEMAKING FROM JAMES SALSMAN REQUESTING THE AMENDMENT OF 10 C.F.R PART 20	ML051670068	
2			06/09/2005	FEDERAL REGISTER NOTICE ON RECEIPT OF THE PETITION OF JAMES SALSMAN FOR RULEMAKING (PRM-20- 26). THE PETITION WAS PUBLISHED IN THE FEDERAL REGISTER ON JUNE 15, 2005 AT 70FR34699.	ML051360152	
3	FRED T.	ADAMS	SELF	06/15/2005	COMMENT NUMBER 1 ON THE PETITON FOR RULEMAKING	ML051680158

NRC DOCKET NO. PRM-20-26*Wednesday, October 22, 2008*

ID NUMBER	SUBMITTER	REPRESENTING	DOCUMENT DATE	DESCRIPTION	ACCESSION NUMBER
4	JAMES	SALSMAN	SELF	06/16/2005 COMMENT NUMBER 2 ON THE PETITON FOR RULEMAKING	ML051680165
5	JULIANA	DUTRA	SELF	06/28/2005 COMMENT NUMBER 3 ON THE PETITION FOR RULEMAKING	ML051800289
6				06/30/2005 LETTER FROM JAMES SALSMAN RESPONDING TO FRED ADAMS' COMMENTS RE PRM-20-26	ML051860009
7				07/01/2005 LETTER FROM FRED T. ADAMS RESPONDING JAMES SALSMAN COMMENTS RE PRM 20- 26	ML051860007
8				07/02/2005 LTR FROM JAMES SALSMAN REPONDING TO FRED ADAMS COMMENTS RE PRM 20- 26	ML051870014

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ID NUMBER	SUBMITTER	REPRESENTING	DOCUMENT DATE	DESCRIPTION	ACCESSION NUMBER	
9			07/18/2005	LETTER FROM JAMES SALSMAN TO ANETTE L. VIETTI-COOK, JOSEPH DECICCO, AND TERRY LODGE RE PRM- 20-26	ML052020312	
10			07/22/2005	LETTER FROM JAMES SALSMAN REQUESTING THE INCLUSION OF THE RESULTS OF THREE FOIA REQUESTS IN THE COMMENTS FOR PRM 20-26	ML052080263	
11	NANCY MD	SANDLER	SELF	08/15/2005	COMMENT NUMBER 4 ON THE PETITION FOR RULEMAKING	ML052300305
12	MARION EXECUTIVE DIRECTOR	LOOMIS	WYOMING MINING ASSOCIATION	08/22/2005	COMMENT NUMBER 5 ON THE PETITION FOR RULEMAKING	ML052350688
13	CLIFTON W. FARRELL SR. PROGRAM MANAGER	NEI		08/26/2005	COMMENT NUMBER 6 ON THE PETITION FOR RULEMAKING	ML052450195

NRC DOCKET NO. PRM-20-26*Wednesday, October 22, 2008*

ID NUMBER	SUBMITTER	REPRESENTING	DOCUMENT DATE	DESCRIPTION	ACCESSION NUMBER
14	OSCAR PAULSON FACILITY SUPERVISOR	KENNECOTT URANIUM COMPANY	08/22/2005	COMMENT NUMBER 7 ON THE PETITION FOR RULEMAKING	ML052430206
15			08/27/2005	LETTER FROM JAMES SALSMAN RESPONDING TO THE AUGUST 22, 2005 COMMENTS OF WYOMING MINING ASSOCIATION.	ML052410323
16	KATIE SWEENEY ASSOCIATE GENERAL COUNSEL	NATIONAL MINING ASSOCIATION	08/29/2005	COMMENT NUMBER 8 ON THE PETITON FOR RULEMAKING	ML052430022
17			01/04/2006	LETTER FROM A.L. VIETTI-COOK TO JAMES SALSMAN RESPONDING TO HIS NOVEMBER 10, 2005, EMAIL THAT EXPRESSED CONCERNS WITH RESPECT TO ITEMS THAT WERE THOUGHT TO BE MISSING FROM THE DOCKET ON PRM- 20-26.	ML082960038

NRC DOCKET NO. PRM-20-26

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ID NUMBER	SUBMITTER	REPRESENTING	DOCUMENT DATE	DESCRIPTION	ACCESSION NUMBER
18	JAMES	SALSMAN	SELF	07/23/2006 COMMENT NUMBER 9 ON THE PETITION FOR RULEMAKING	ML062080471
19				09/02/2006 LETTER FROM WYOMING MINING ASSOCIATION, MARION LOOMIS, EXPRESSING CONCERNS ABOUT BROADENING THE SCOPE OF PRM-20-26	ML062790135
20				09/19/2006 LETTER FROM KENNECOTT URANIUM COMPANY, OSCAR PAULSON, RE REQUEST THAT PRM 20-26 TO BE DENIED.	ML062710289
21	JAMES	SALSMAN	SELF	02/06/2007 EMAIL FROM JAMES SALSMAN TO EDO LUIS REYES PROVIDING ADDITIONAL INFORMATION CONCERNING HIS PETITON.	ML070370570

NRC DOCKET NO. PRM-20-26*Wednesday, October 22, 2008*

ID NUMBER	SUBMITTER	REPRESENTING	DOCUMENT DATE	DESCRIPTION	ACCESSION NUMBER
22			07/11/2008	LETTER FROM R.W. BORCHARDT, EXECUTIVE DIRECTOR FOR OPERATIONS, NRC TO JAMES SALSMAN, ADVISING HIM OF THE DENIAL OF HIS PETITION FOR RULEMAKING (PRM-20-26). THE LETTER ENCLOSED THE FEDERAL REGISTER NOTICE OF THE PETITION'S DENIAL.	ML081050059
23			07/11/2008	NOTICE OF DENIAL OF THE PETITION OF JAMES SALSMAN (PRM-20-26) FOR RULEMAKING. THE NOTICE WAS DATED JULY 11, 2008, AND WAS PUBLISHED IN THE FEDERAL REGISTER ON JULY 25, 2008 AT 73FR43381.	ML081050104

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24				R.J. ACKERMANN ET AL., "FREE ENERGIES OF FORMATION OF GASEOUS URANIUM, MOLYBDENUM, AND TUNGSTEN TRIOXIDES", 64 JOURNAL OF PHYSICAL CHEMISTRY 350 (1960).	
25				C. A. ALEXANDER, "VOLATILIZATION OF URANIA UNDER STRONGLY OXIDIZING CONDITIONS", 346 JOURNAL OF NUCLEAR MATERIALS 312 (2005).	
26				E-MAIL FROM DR. CARL A. ALEXANDER TO JAMES A. SALSMAN (APR. 20, 2006) (ON FILE WITH NRC).	

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ID NUMBER	SUBMITTER	REPRESENTING	DOCUMENT DATE	DESCRIPTION	ACCESSION NUMBER
27				AMERICAN CONFERENCE OF GOVERNMENTAL INDUSTRIAL HYGIENISTS, 2005 TLVS AND BEIS: BASED IN THE DOCUMENTATION OF THE THRESHOLD LIMIT VALUES FOR CHEMICAL SUBSTANCES AND PHYSICAL AGENTS & BIOLOGICAL EXPOSURE INDICES (2005).	
28				AMERICAN CONFERENCE OF GOVERNMENTAL INDUSTRIAL HYGIENISTS, DOCUMENTATION OF THE THRESHOLD LIMIT VALUES FOR CHEMICAL SUBSTANCES 7TH ED. (2001)	

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ID NUMBER	SUBMITTER	REPRESENTING	DOCUMENT DATE	DESCRIPTION	ACCESSION NUMBER
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29

E. ANSOBORLO,
"EXPOSURE
IMPLICATIONS FOR
URANIUM AEROSOLS
FORMED AT A NEW
LASER ENRICHMENT
FACILITY: APPLICATION
OF THE ICRP
RESPIRATORY TRACT
AND SYSTEMIC
MODEL", 79 RADIATION
PROTECTION
DOSIMETRY 23 (1998).

30

M.R. ARANETTA,
"PREVALENCE OF
BIRTH DEFECTS
AMONG INFANTS OF
GULF WAR VETERANS
IN ARKANSAS,
ARIZONA, CALIFORNIA,
GEORGIA, HAWAII, AND
IOWA, 1989-1993",
BIRTH DEFECTS RES A
CLIN MOL TERATOL.,
APR. 2003 AT 246-60
(ABSTRACT).

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ID NUMBER	SUBMITTER	REPRESENTING	DOCUMENT DATE	DESCRIPTION	ACCESSION NUMBER
31				DARRYL P. ARFSTEN ET AL., "A REVIEW OF THE EFFECTS OF URANIUM AND DEPLETED URANIUM EXPOSURE ON REPRODUCTION AND FETAL DEVELOPMENT", 17 TOXICOLOGY AND INDUSTRIAL HEALTH 180 (2001).	
32				WAYNE BRINER & JENNIFER MURRAY, "EFFECTS OF SHORT- TERM AND LONG-TERM DEPLETED URANIUM EXPOSURE ON OPEN- FIELD BEHAVIOR AND BRAIN LIPID OXIDATION IN RATS", 27 NEUROTOXICOLOGY AND TERATOLOGY 135 (2005).	

NRC DOCKET NO. PRM-20-26

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ID NUMBER	SUBMITTER	REPRESENTING	DOCUMENT DATE	DESCRIPTION	ACCESSION NUMBER
33				JOHN F. BONFATTI, "FORMER MARINE SUFFERED FROM SECRET URANIUM WORK AT BETHLEHEM, FOUGHT BATTLE", BUFFALO NEWS, DEC. 16, 2004.	
34				CAMPAIGN AGAINST DEPLETED URANIUM, "MOD FORCED TO PAY PENSION FOR DU CONTAMINATION," HTTP://WWW.CADU.ORG.UK/NEWS/17.HTM#KN EW (LAST VISITED OCTOBER 17, 2008).	
35				V. CHAZEL, "EFFECT OF U3O8 SPECIFIC SURFACE AREA ON IN VITRO DISSOLUTION, BIOKINETICS, AND DOSE COEFFICIENTS", 79 RADIATION PROTECTION DOSIMETRY 39 (1998)	

NRC DOCKET NO. PRM-20-26

Wednesday, October 22, 2008

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36				DEPLETED URANIUM OVERSIGHT BOARD, "THE DEPLETED URANIUM OVERSIGHT BOARD (DUOB) - AN INTRODUCTION" (ON FILE WITH NRC).	
37				PAT DOYLE ET AL., "MISCARRIAGE STILLBIRTH AND CONGENITAL MALFORMATION IN THE OFFSPRING OF UK VETERANS OF THE FIRST GULF WAR", 33 INTERNATIONAL JOURNAL OF EPIDEMIOLOGY 74 (2004).	

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ID NUMBER	SUBMITTER	REPRESENTING	DOCUMENT DATE	DESCRIPTION	ACCESSION NUMBER
38				ENVIRONMENTAL PROTECTION AGENCY, FEDERAL GUIDANCE REPORT NO. 11: LIMITING VALUES OF RADIONUCLIDE INTAKE AND AIR CONCENTRATION AND DOSE CONVERSION FACTORS FOR INHALATION, SUBMERSION, AND INGESTION (1988).	
39				R.L. GILCHRIST ET AL., "CHARACTERIZATION OF AIRBORNE URANIUM FROM TEST FIRINGS OF XM774 AMMUNITION" (BATTELLE PACIFIC NORTHWEST LABORATORY, TECHNICAL REPORT NO. PNL-2944, 1979).	
40				GMELIN HANDBOOK OF INORGANIC CHEMISTRY 8TH ED. (1982).	

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41				RITA HINDEN ET AL., "TERATOGENICITY OF DEPLETED URANIUM AEROSOLS: A REVIEW FROM AN EPIDEMIOLOGICAL PERSPECTIVE", 4 ENVIRONMENTAL HEALTH 17 (2005).	
42				INTERNATIONAL COMMISSION ON RADIOLOGICAL PROTECTION, PUBLICATION 30 (1978).	
43				INSTITUTE OF MEDICINE, GULF WAR AND HEALTH; DEPLETED URANIUM, PYRIDOSTIGMINE BROMIDE, SARIN, VACCINES (2000).	

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44				G.C. JIANG & M. ASCHNER, "NEUROTOXICITY OF DEPLETED URANIUM: REASONS FOR INCREASED CONCERN", 110 BIOLOGICAL TRACE ELEMENT RESEARCH 1 (2006).	
45				HAN KANG ET AL., "PREGNANCY OUTCOMES AMONG U.S. GULF WAR VETERANS: A POPULATION-BASED SURVEY OF 30,000 VETERANS", 11 ANNALS OF EPIDEMIOLOGY 504 (2001).	
46				P. LESTAEVEL ET AL., "THE BRAIN IS A TARGET ORGAN AFTER ACUTE EXPOSURE TO DEPLETED URANIUM", 212 TOXICOLOGY 219 (2005).	

Wednesday, October 22, 2008

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47				KRISTEN LOMBARDI, "STIRRING UP THE TOXIC DUST", THE VILLAGE VOICE, JUNE 21, 2005.	
48				M.A. MCDIARMID ET AL., "SURVEILLANCE OF DEPLETED URANIUM EXPOSED GULF WAR VETERANS: HEALTH EFFECTS OBSERVED IN AN ENLARGED 'FRIENDLY FIRE' COHORT", 43 JOURNAL OF OCCUPATIONAL AND ENVIRONMENTAL MEDICINE 991 (2001) (ABSTRACT).	
49				ALEXANDRA C. MILLER ET AL., "DEPLETED URANIUM-CATALYZED OXIDATIVE DNA DAMAGE: ABSENCE OF SIGNIFICANT ALPHA PARTICLE DECAY", 91 JOURNAL OF INORGANIC BIOCHEMISTRY 246 (2002).	

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50				MARJORIE MONLEAU ET AL., " BIOACCUMULATION AND BEHAVIORAL EFFECTS OF DEPLETED URANIUM IN RATS EXPOSED TO REPEATED INHALATIONS", 390 NEUROSCIENCE LETTERS 31 (2005).	
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51				P.E. MORROW ET AL., "INHALATION STUDIES OF URANIUM TRIOXIDE", 23 HEALTH PHYSICS 273 (1972).	
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52				E. PINKERTON ET AL., "MORTALITY AMONG A COHORT OF URANIUM MILL WORKERS: AN UPDATE", 61 JOURNAL OF OCCUPATIONAL AND ENVIRONMENTAL MEDICINE 57 (2004).	
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53				J. J. RUSSELL & R. L. KATHREN, "URANIUM DEPOSITION AND RETENTION IN A USTUR WHOLE BODY CASE", 86 HEALTH PHYSICS 273 (2004).	
54				BERNARD ROSTKER, "DEPLETED URANIUM IN THE GULF (II)" (SPECIAL ASSISTANT FOR GULF WAR ILLNESSES, DEPT. OF DEFENSE, ENVIRONMENTAL EXPOSURE REPORTS TECH. REP. NO. 2000179-2, VER. 2.0, 2000).	
55				B. SALBU ET AL, "OXIDATION STATES OF URANIUM IN DEPLETED URANIUM PARTICLES FROM KUWAIT", 78 JOURNAL OF ENVIRONMENTAL RADIOACTIVITY 125 (2005).	

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Wednesday, October 22, 2008

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56				H. SCHRODER ET AL., "CHROMOSOME ABERRATION ANALYSIS IN PERIPHERAL LYMPHOCYTES OF GULF WAR AND BALKANS WAR VETERANS", 103 RADIATION PROTECTION DOSIMETRY 211 (2003).	
57				UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES, AGENCY FOR TOXIC SUBSTANCES AND DISEASE REGISTRY, REPORT ON TOXICOLOGY PROFILE FOR URANIUM (1999).	

Wednesday, October 22, 2008

ID NUMBER	SUBMITTER	REPRESENTING	DOCUMENT DATE	DESCRIPTION	ACCESSION NUMBER
58				CARL VOEGTLIN & HAROLD C. HODGE, PHARMACOLOGY AND TOXICOLOGY OF URANIUM COMPOUNDS, WITH A SECTION ON THE PHARMACOLOGY AND TOXICOLOGY OF FLUORINE AND HYDROGEN FLUORIDE (1949).	
59				BIN WAN ET AL., "IN VITRO IMMUNE TOXICITY OF DEPLETED URANIUM: EFFECTS ON MURINE MACROPHAGES, CD4+ T CELLS, AND GENE EXPRESSION PROFILES", 114 ENVIRONMENTAL HEALTH PERSPECTIVES 85 (2006).	

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Wednesday, October 22, 2008

ID NUMBER	SUBMITTER	REPRESENTING	DOCUMENT DATE	DESCRIPTION	ACCESSION NUMBER
60				M. WILLIAMS, "FIRST AWARD FOR DEPLETED URANIUM POISONING CLAIM", THE HERALD ONLINE FEB. 9, 2004, AVAILABLE AT HTTP://VITW.ORG/ARCH IVES/405 .	