

February 27, 2009 (8:00am)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

February 26, 2009

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
Pa'ina Hawaii, LLC)
)
Material License Application)
_____)

Docket No. 30-36974-ML
ASLBP No. 06-843-01-ML

INTERVENOR CONCERNED CITIZENS OF HONOLULU'S
LIST OF DOCUMENTS FOR PUBLIC COMMENT AND REVIEW

Pursuant to the Atomic Safety and Licensing Board's ("Board's") instructions at the February 24, 2009 telephonic conference, intervenor Concerned Citizens of Honolulu respectfully submits its list of documents related to the Nuclear Regulatory Commission ("NRC") Staff's National Environmental Policy Act ("NEPA") review of applicant Pa'ina Hawaii, LLC's proposed irradiator that Concerned Citizens contends must be put out for public comment and review to satisfy NEPA's public involvement requirements. In summary, these documents contain analyses that substantially modify the discussion of potential impacts and alternatives set forth in the draft environmental assessment ("EA") the Staff put out for public review in December 2006, as well as documents incorporated by reference into those new analyses that were not identified and made available to the public during the comment period on the draft EA. See 71 Fed. Reg. 78,231 (Dec. 28, 2006);¹ 40 C.F.R. § 1502.21 (material incorporated by reference must be cited, "its content briefly discussed," and "reasonably

¹ Please note that, in addition to posting the draft EA on ADAMS, the Staff placed a link to the EA in the "Quick Links" box on the NRC's web site: <http://www.nrc.gov/materials.html>. See id. at 78,232.

available for inspection by potentially interested persons within the time allowed for comment”).

In addition, the list includes documents on which the Staff relied in preparing the EA, but failed to identify or make available to the public during the comment period on the draft EA:

1. Staff Exhibit 1: NRC Staff's Testimony of Matthew Blevins
2. Staff Exhibit 2: NRC Staff's Testimony of James Durham, Amitava Ghosh, John Stamatakos, and Kaoshik Das
3. Staff Exhibit 4: Statement of Professional Qualifications of Matthew Blevins
4. Staff Exhibit 5: Statement of Professional Qualifications of Amitava Ghosh
5. Staff Exhibit 6: Statement of Professional Qualifications of James Durham
6. Staff Exhibit 7: Statement of Professional Qualifications of John A. Stamatakos
7. Staff Exhibit 8: Statement of Professional Qualifications of Kaoshik Das
8. Staff Exhibit 15: Photograph of Runway 8R-26L
9. Staff Exhibit 16: Photograph of Runway 22R-22L
10. Staff Exhibit 17: Photograph, HNL Runways
11. Staff Exhibit 18: *Corrosion Behavior of Electrodeposited Nanocrystalline Cobalt*
12. Staff Exhibit 19: FAA Flight Data, Airport Master Record, Aug. 15, 2006
13. Staff Exhibit 20: FAA Flight Data, Airport Master Record, Aug. 20, 2008
14. Staff Exhibit 21: The State of Hawaii, Airport Activity Statistics by Calendar Year
15. Staff Exhibit 22: Aircraft Accidents at Honolulu International Airport (Chart, 1979-2006)
16. Staff Exhibit 23: Operations at Honolulu International Airport (Chart, 1982-2008)
17. Staff Exhibit 24: Difference in Operations with Previous Year (Chart, 1983-2007)
18. Staff Exhibit 25: Schematic Collimated Beam
19. Staff Exhibit 26: Email from Michael Kohn to Matthew Blevins, February 28, 2007 (Letter on Alternatives)
20. Staff Exhibit 27: Microshield Normal Operations, Co60 Irradiator, Nov. 27, 2006 (Run Date)²
21. Staff Exhibit 28: Microshield Summary Sheet for Loss of 6 Foot Water Shielding, March 28, 2007 (Run Date)

² As discussed during the February 24, 2009 telephonic conference, Concerned Citizens respectfully submits that, even if the Staff deems information regarding the quantity of Cobalt-60 Pa'ina seeks to be sensitive (despite the fact this information is a matter of public record), it still should make redacted versions of the microshield calculations available to the public.

22. Staff Exhibit 29: Microshield Summary Sheet for Loss of 8 Foot Water Shielding, May 9, 2007 (Run Date)
23. Staff Exhibit 30: NRC and DOE Comparison of Crash Rates
24. Staff Exhibit 32: Letter from Benjamin R. Schlapak to Michael Kohn, May 10, 2005 (Response to Fax – Tsunami Flood Zone)
25. Staff Exhibit 33: NRC Staff's Vaughn Index and Updates to Disclosures, July 31, 2008
26. Staff Exhibit 35: Written Comments in Support of NRC's Environmental Assessment Submitted by Lyle Wong, Ph.D., Feb. 1, 2007
27. Staff Exhibit 37: Update on the Environmental and Economic Costs Associated with Alien Invasive Species in U.S.
28. Staff Exhibit 40: Anthrax Spore Decontamination Using Methyl Bromide
29. Staff Exhibit 48: Hawaii 6.pdf
30. Staff Exhibit 49: Hawaii Area Cyclones
31. Staff Exhibit 50: HNL Accident Information
32. Staff Exhibit 51: Honolulu Water Levels
33. Staff Exhibit 52: Honolulu Seismic Hazards, Earthquakes
34. Staff Exhibit 53: Analysis of Attenuation of Ground Motion
35. Staff Exhibit 54: RADTRAN Dose Consequences
36. Staff Exhibit 56: Catalog of Hawaiian Earthquakes
37. Staff Exhibit 57: Complied Cyclones and Water Levels
38. Staff Exhibit 58: Scientific Notebook, Kaushik Das, Nov. 1, 2006, Topical Report for the Food Irradiator of Pa'ina Hawaii
39. Testimony of Frederick C. Sturtz (dated Sept. 5, 2008)
40. "Pa'ina Irradiator SER Input" (Dec. 6, 2006)
41. "Decision-Making Framework for Materials and Research and Test Reactor Vulnerability Assessments, SECY-04-0222"
42. "Draft Vulnerability Assessment of Material Facilities," Jeffrey, LaChance, et al., Sandia National Laboratory (Mar. 8, 2004)

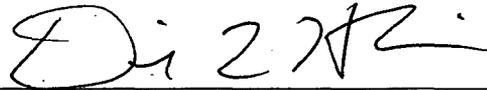
Please note that Concerned Citizens generated the foregoing list based on the information currently available regarding the Staff's NEPA analysis. Thus, for example, Concerned Citizens has not listed the Written Direct Testimony of Michael Kohn (dated Sept. 15, 2008), since, to date, the Staff has not claimed it relied on that testimony to justify its refusal to analyze the

electron beam, x-ray irradiator alternative. See Motor Vehicle Manuf. Ass'n v. State Farm Mut. Auto. Insur. Co., 463 U.S. 29, 50 (1983) (“an agency’s action must be upheld, if at all, on the basis articulated by the agency itself”).

During the February 24, 2009 telephonic conference, counsel for the Staff noted that, in next week’s response to Concerned Citizens’ Supplemental Statement of Position, the Staff likely will present further analysis that substantially modifies the EA. If that is the case, to satisfy NEPA, that additional analysis, as well as the documents on which that analysis relies, must be put out for public review and comment.

Dated at Honolulu, Hawai‘i, February 26, 2009.

Respectfully submitted,



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Counsel for Concerned Citizens of Honolulu

CERTIFICATE OF SERVICE

The undersigned hereby certifies that, on February 26, 2009, a true and correct copy of the foregoing document was duly served on the following via e-mail and first-class United States mail, postage prepaid:

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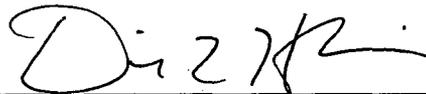
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Dated at Honolulu, Hawai'i, February 26, 2009.



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EARTHJUSTICE

Because the earth needs a good lawyer.

BOZEMAN, MONTANA DENVER, COLORADO HONOLULU, HAWAII
INTERNATIONAL JUNEAU, ALASKA NEW YORK, NEW YORK OAKLAND, CALIFORNIA
SEATTLE, WASHINGTON TALLAHASSEE, FLORIDA WASHINGTON, D.C.

TRANSMITTAL LETTER

TO: Office of the Secretary
 U.S. Nuclear Regulatory Commission
 Washington, DC 20555-0001
 Attention: Rulemakings and Adjudications Staff

VIA FIRST CLASS MAIL

FROM: David L. Henkin

DATE: February 26, 2009

RE: Pa'ina Hawaii, LLC (Materials License Application),
 Docket No. 30-36974-ML, ASLBP No. 06-843-01-ML

ENCLOSURES	DATE	DESCRIPTION
Original and two copies	2/26/09	INTERVENOR CONCERNED CITIZENS OF HONOLULU'S LIST OF DOCUMENTS FOR PUBLIC COMMENT AND REVIEW

- For Your Information.
- For Your Files.
- Per Our Conversation.
- Per Your Request.
- For Review and Comments.
- See Remarks Below.

- For Filing.
- For Recordation.
- For Signature & Return.
- For Necessary Action.
- For Signature & Forwarding.

REMARKS: