

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD PANEL

Before Administrative Judges:

Ann Marshall Young, Chair
Paul B. Abramson
R. Bruce Matthews

In the Matters of:

HIMAT J. SONI

DHIRAJ SONI

Docket No's. IA-08-023, IA-08-022

ASLBP No's. 09-882-02-EA-BD01,
09-881-01-EA-BD01

May 8 , 2009

ORDER

(Confirming Matters Addressed at Pre-Hearing Telephone Conference)

On April 29, 2009, the Licensing Board held a prehearing telephone conference in the above-referenced proceedings. The following matters were addressed:

(1) The parties agreed to consolidation of the two above-referenced matters, as well as to consolidation of these matters with another proceeding involving Eastern Testing and Inspection, Inc. (ETI), when it reaches the hearing stage and unless first settled.¹ The Board will at an appropriate time order consolidation of all proceedings that may remain for hearing.

(2) During May 2009 the parties will work toward settlement of all three proceedings, but do not at this time request appointment of a settlement judge.² If the parties decide that they wish to seek appointment of a settlement judge who would work with the parties in a context

¹ Transcript (Tr.) at 37. The Staff is currently working on its own decision on the ETI matter, and expects to have completed this by mid-May. Tr. at 23.

² Tr. at 18, 21.

separate and apart from this proceeding, they may contact the Board Chair and she will request that the Chief Administrative Judge appoint a settlement judge.³

(3) The parties shall, on or before Friday, May 29, 2009, notify the Board (a) whether they have settled, or anticipate in the near future settling, either or both of the above-referenced matters; (b) whether they need additional time to work on settlement; (c) of an agreed-upon discovery schedule, including names of deponents and times for depositions; (d) of their proposed schedule for the submission and exchange of witness and exhibit lists; and (e) of all matters on which the parties may be in dispute, stating and explaining these matters specifically and fully.⁴

(4) Unless all related proceedings are settled before such time, any hearing in these matters will, as requested by counsel for Himat and Dhiraj Soni and ETI, take place during the period of July 29-31, 2009, in the ASLBP hearing room at NRC headquarters in Rockville, Maryland.⁵ As agreed by the parties, the hearing will be open to the public.⁶

(5) The parties will bear the responsibility in all aspects of this proceeding for any necessary marking and handling of sensitive unclassified material pursuant to 10 C.F.R. § 2.390.⁷

(6) The primary issues in any hearing in these proceedings will be as follows: (a) In the Himat Soni proceeding the issues are whether and to what extent the facts alleged by the NRC Staff in relevant documents are true, and whether and the extent to which the Order Prohibiting

³ Tr. at 44-45.

⁴ Tr. at 42-43; see *id.* at 9, 15-16.

⁵ Tr. at 28, 33-34.

⁶ Tr. at 8-9.

⁷ Tr. at 9, 15, 43.

Involvement in NRC-Licensed Activities should be upheld; (b) in the Dhiraj Soni proceeding the only issues are whether and to what extent the facts alleged by the NRC Staff are true, and whether any acts of Dhiraj Soni were wilful and intentional; and (c) should the ETI proceeding get to such point, the issues would be whether and to what extent the facts alleged are true, and whether and to what extent a fine assessed by the NRC Staff should be upheld.⁸

(7) The NRC Staff's obligation to prepare a hearing file will not start until after settlement negotiations have been completed.⁹

(8) If anything arises that might require the scheduling of another telephone prehearing conference, the parties shall bring that to the attention of the Licensing Board expeditiously.¹⁰

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

Ann Marshall Young, Chair
ADMINISTRATIVE JUDGE

Rockville, Maryland
May 8, 2009¹¹

⁸ Tr. at 36-37.

⁹ Tr. at 41.

¹⁰ Tr. at 45.

¹¹ Copies of this Order were sent this date by the agency's E-Filing system to counsel for all parties in the above-referenced proceedings.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of

DHIRAJ SONI

(Enforcement Action)

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Docket No. IA-08-022-EA

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing ORDER (CONFIRMING MATTERS ADDRESSED AT PRE-HEARING TELEPHONE CONFERENCE) have been served upon the following persons by Electronic Information Exchange.

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Docket No. IA-08-022-EA
ORDER (CONFIRMING MATTERS ADDRESSED AT PRE-HEARING
TELEPHONE CONFERENCE)

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[Original signed by Nancy Greathead]

Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 8th day of May 2009