

OFFICE OF THE SECRETARY
CORRESPONDENCE CONTROL TICKET

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ACTION OFFICE: OCAA

AUTHOR: Andrew Buchan
AFFILIATION: HI
ADDRESSEE: Annette Vietti-Cook
SUBJECT: Docket No. 30-36974-ML / ASLB No. 06-843-01-ML

ACTION: Signature of Secretary
DISTRIBUTION: Chairman...Comrs....SECY to Ack

LETTER DATE: 06/01/2009
ACKNOWLEDGED: No
SPECIAL HANDLING:

NOTES: Reassignment to OCAA per Trip Rothschild, OGC
FILE LOCATION: ADAMS

DATE DUE: 07/10/2009 **DATE SIGNED:**

SF 278

June 1, 2009

Andrew E. Buchan
47-400A Ahaolelo Rd
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Commissioners Jaczko, Lyons, Klein, and Svinicki
c/o Annette L. Vietti-Cook
Secretary of the Commission
U.S. Nuclear Regulatory Commission
Mail Stop O-16G4
Washington, DC 20555-0001

RE: Docket No. 30-36974-ML / ASLB No. 06-843-01-ML

Dear Commissioners:

My name is Andrew Buchan and in August of 2005 I moved my family from California to Hawai'i specifically to be the Radiation Safety Officer for Pa'ina Hawai'i. I have one question: When is the hearing?

I was going to recount the trail of paperwork, motions, deadlines, and things that led us here but I am not a lawyer and it has all been repeated ad nauseam. It all really comes down to the one question: When is the hearing? It has been over three years since the hearing request was granted, and more importantly, almost two years since the Final EA was completed. The Subpart L Model Milestones suggest that a hearing should be scheduled within 175 days of the Final EA being filed. It has been almost 4 times that duration, with two vague attempts at scheduling a hearing date that have never gone anywhere. In fact by the time you get this letter, the last compatible date for all the lawyers and witnesses in the most recent attempt at setting a hearing date will have come and gone. You, the Commission, in your order on 3/17/08 indicated that this was a "long-pending proceeding" and that was over a year ago. Why the Board, in their 7/17/08 Order felt a Summary Motion wouldn't be much faster I do not know. Even a ruling against us would be something, but this limbo is ridiculous.

Because of the delay in the project that this proceeding has caused, I have had to take another job to pay my bills and still stay with the project. As you can imagine radiation safety jobs are thin on the ground in Hawai'i, so I have had to take something outside my field and well below my earning potential. I did so back in 2006 believing the NRC would resolve the issues in a timely manner; after all this isn't a new nuclear power plant or waste repository it is a **CATEGORICALLY EXCLUDED** irradiator. The ASLB Board had even said in a conference call that they expected this proceeding to be wrapped up in 2007. So I was willing to take the financial hit in order to stay with a project I believed in, one that will do a lot of good for Hawai'i, because it was going to be resolved in a reasonable time. That time is no longer reasonable, I have a family to provide for: When is the hearing?

I am a stakeholder as well. Who at the NRC has my interests at heart? In my case, the stake being held is the one this delay is driving into my career and finances, if you will excuse the play on words. While lawyers debate the potential for possible harm to five people we haven't heard from since this proceeding started I, my wife and our new daughter are actually, really, currently being harmed.

Apparently real harm to people is okay in the name of protecting others from hypothetical harm.

I have enjoyed a fascinating career in radiation safety, helping to promote a range of technologies that support research and improve the health and welfare of people everywhere. This is, in part, because of the strong, science based regulatory structure of the NRC. But now I am rapidly losing faith in the NRC. Should I move on from this position, I am not sure I would be willing to take a position in another NRC state. How could I trust my lively-hood to an organization that allows even a straight forward case such as our irradiator to drag out endlessly? Trust is a two way street. Yes, you must show that the public can trust the NRC to keep it safe, but the NRC must also show that the people who uphold its regulations won't be trampled underfoot in the process. I am being trampled underfoot, so I ask you one more time: When is the hearing?

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew E. Buchan". The signature is fluid and cursive, with a long horizontal stroke at the end.

Andrew E. Buchan
Radiation Safety Officer Pa'ina Hawai'i