

UNITED STATES OF AMERICA
 NUCLEAR REGULATORY COMMISSION
 ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

Alan S. Rosenthal, Chairman
 Dr. Jeffrey D. E. Jeffries
 Nicholas G. Trikouros

In the Matter of

IDAHO STATE UNIVERSITY

(Special Nuclear Materials License SNM-1373)

Docket No. 70-1374-MLR

ASLBP No. 10-897-01-MLR-BD01

February 24, 2010

MEMORANDUM AND ORDER

(Granting Motion to Withdraw Hearing Request and Intervention Petition and Terminating Proceeding)

On January 12, 2010, Kevan C. Crawford, Ph.D. (Petitioner) filed a request for hearing and petition for leave to intervene with regard to the pending application of the Idaho State University (Applicant) for a renewal of its Special Nuclear Material (SNM) License, SNM-1373.¹ The license covers nuclear material used for research, training, and education purposes at the Applicant's campus in Pocatello, Idaho.²

In his Hearing Request, Petitioner, a former employee of the Applicant, alleges various regulatory and criminal violations by the Applicant in the early 1990s.³ He seeks compensation from the Applicant for "acts taken by [it] to prevent reporting of . . . regulatory and criminal violations governing the licensed SNM materials for the protection of the public and the interests

¹ Kevan Crawford Request for Hearing and Petition for Leave to Intervene (Jan. 11, 2010) at 1 [hereinafter Crawford Hearing Request]; ISU Application (Feb. 27, 2009) (ADAMS Accession No. ML092730441).

² Idaho State University's Answer Opposing Petition to Intervene and Request for Hearing by Dr. Kevan C. Crawford (Feb. 8, 2010) at 2 [hereinafter ISU Answer].

³ Crawford Hearing Request at 2-3.

of the U.S. government.”⁴ Petitioner asserts that he has standing to intervene in this proceeding because he is: (1) an eyewitness, (2) an expert witness, (3) a whistleblower, and (4) a victim of whistleblower retribution.⁵

Both the Applicant and NRC Staff oppose the petition. They assert that Petitioner lacks standing to intervene and seeks a remedy that is not available in a proceeding on a license renewal application.⁶ Further, they point out that Petitioner’s application does not identify a link between the renewal of the SNM license and any actual harm suffered by Petitioner.⁷

On February 18, Petitioner filed a motion to withdraw his petition.⁸ According to the motion, after receipt of the Applicant and NRC Staff replies to the petition and consultation with congressional staff members of a U.S. House of Representatives energy subcommittee, Petitioner had concluded that an adjudicatory hearing on the license renewal application could not serve to resolve the issues he raised, and he had “discovered the more appropriate forum for the matter of [the alleged] criminal violations.”⁹ Petitioner goes on to state a belief that the proper forum for his grievances is “through a 10 C.F.R. § 70.81 Action to permanently revoke Idaho State University’s SNM-1373 license and the parallel 10 C.F.R. § 50.100 Action to

⁴ Crawford Hearing Request at 6. Most of the allegations contained in the Hearing Request were also contained in a June 25, 2009 petition filed with the NRC Executive Director for Operations, which was appended to the Hearing Request as Exhibit 1. Submitted under the provisions of 10 C.F.R. § 2.206, the petition sought the correction of “decades of regulatory, criminal, and ethical violations” on the part of the Applicant in the conduct of its licensed activities. Insofar as we are aware, the petition has not as yet been acted upon by the NRC Staff.

⁵ Crawford Hearing Request at 1.

⁶ See ISU Answer at 3-4; NRC Staff’s Response to Kevan C. Crawford’s Request for Hearing and Petition for Leave to Intervene (Feb. 12, 2010) at 1, 6 [hereinafter NRC Staff Answer].

⁷ ISU Answer at 5; NRC Staff Answer at 6. In fact, the Hearing Request does not appear specifically to seek the denial of, or some relevant condition attached to the grant of, a license renewal.

⁸ Petition to Withdraw (Feb. 18, 2010).

⁹ Id. at 1, 3.

permanently revoke Idaho State University's R-110 license based on observed criminal violations associated with that license."¹⁰

The motion to withdraw the petition is unopposed by the Applicant and NRC Staff and is hereby granted. We do not, of course, take a position on whether the relief sought by the Petitioner might be available to him through the vehicles he now suggests.

There being no other intervention petitions on file, the proceeding is hereby terminated.
It is so ORDERED.

THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

Alan S. Rosenthal, Chairman
ADMINISTRATIVE JUDGE

/RA/

Jeffrey D. E. Jeffries
ADMINISTRATIVE JUDGE

/RA/

Nicholas G. Trikouros
ADMINISTRATIVE JUDGE

Rockville, Maryland
February 24, 2010

¹⁰ Id. at 2. The cited regulations are concerned with the revocation, suspension, and modification of outstanding NRC licenses.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
IDAHO STATE UNIVERSITY) Docket No. 70-1374-MLR
)
(Special Nuclear Materials License SNM-1373)
License Renewal))

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **MEMORANDUM AND ORDER (Granting Motion to Withdraw Hearing Request and Intervention Petition and Terminating Proceeding) (LBP-10-03)** have been served upon the following persons by Electronic Information Exchange.

U.S. Nuclear Regulatory Commission
Atomic Safety and Licensing Board Panel
Mail Stop: T-3F23
Washington, DC 20555-0001

Alan S. Rosenthal, Chair
Administrative Judge
E-mail: alan.rosenthal@nrc.gov
rsnthl@verizon.net

Nicholas G. Trikouros
Administrative Judge
E-mail: ngt@nrc.gov

Jeffrey D. E. Jeffries
Administrative Judge
E-mail: jeffrey.jeffries@nrc.gov

Kara Wenzel, Law Clerk
E-mail: kara.wenzel@nrc.gov

U.S. Nuclear Regulatory Commission
Office of Commission Appellate Adjudication
Mail Stop O-7H4M
Washington, DC 20555-0001
OCAAA Mail Center
E-mail: ocaamail@nrc.gov

U.S. Nuclear Regulatory Commission
Office of the General Counsel
Mail Stop O-15 D21
Washington, DC 20555-0001
Catherine Scott, Esq.
Molly Barkman, Esq.
E-mail:
clm@nrc.gov
molly.barkman@nrc.gov

OGC Mail Center: OGCMailCenter@nrc.gov

U.S. Nuclear Regulatory Commission
Office of the Secretary of the Commission
Mail Stop: O-16C1
Washington, DC 20555-0001
Hearing Docket
E-mail: hearingdocket@nrc.gov

Docket No. 70-1374-MLR

MEMORANDUM AND ORDER (Granting Motion to Withdraw Hearing Request and Intervention Petition and Terminating Proceeding) (LBP-10-03)

Dr. Kevan Crawford
3781 S. 3145 E.
Salt Lake City, Utah 84109-3744
E-mail: kevan@craufurd.org

Pillsbury, Winthrop, Shaw, Pittman, LLP
2300 N Street, NW
Washington, DC 20037-1122
Counsel for University of Idaho
Robert B. Haemer, Esq.
Jay Silberg, Esq.
E-mail: robert.haemer@pillsburylaw.com
jay.silberg@pillsburylaw.com

[Original signed by Linda D. Lewis] _____
Office of the Secretary of the Commission

Dated at Rockville, Maryland
This 24th day of February 2010.