

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

Before Administrative Judges:

Alan S. Rosenthal, Chairman
E. Roy Hawkens
Nicholas Tsoulfanidis

In the Matter of

MATTINGLY TESTING SERVICES, INC.

(Molt and Billings, Montana)

Docket No. 30-20836 EA

ASLBP No. 10-905-02-EA-BD01

October 28, 2010

ORDER

(Directing Filing of NRC Staff's Initial Disclosures by November 12, 2010)

As dictated by this Board's October 21, 2010 Order, memorializing determinations made during a telephone prehearing conference held the prior day, the NRC Staff filed on October 27 an Agreed-Upon Proposed Schedule for Further Proceedings in this enforcement matter. With the exception of the proposed date for the filing of the Staff's initial disclosures/hearing file, the parties are in agreement regarding when documents should be due and the hearing commenced.

With respect to the matter in dispute, the NRC Staff proposes that its initial disclosures be due on November 19, 2010. For their part, Mr. Fisek and Ms. Thompson propose that the documents in question be due one week earlier, on November 12.

At this juncture, the Board is addressing only the matter in dispute, retaining the balance of the proposed schedule under advisement for determination at some point next month. As to that matter, the Board has given full consideration to the reasons assigned by the Staff in support of its suggested November 19 due date. It nonetheless is adopting the Ficek-Thompson proposed November 12 due date.

As the Staff acknowledges, given that Mr. Ficek's hearing requests were granted on October 6, 2010, its initial disclosures are currently due on November 5, 2010. See 10 C.F.R. § 2.336(b). Assuming, as we must, that the Staff immediately undertook the preparation of those disclosures, in the continuing exercise of appropriate diligence the providing of an additional seven days for their completion should be sufficient. In that connection, it is our understanding that more than one lawyer in the Office of the General Counsel is assigned to this proceeding.

NRC Staff's initial disclosures to be filed on November 12, 2010. Balance of schedule for further proceedings retained under advisement.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD¹

/RA/

Alan S. Rosenthal, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
October 28, 2010

¹ Copies of this order were sent this date by the agency's E-Filing system to (1) Ms. Thompson; (2) Mr. Ficek; and (3) counsel for the NRC Staff.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
MARK M. FICEK, AND) DOCKET NO. 30-20836-EA
MATTINGLY TESTING SERVICES, INC.)
(Molt and Billings, MT))
)

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Board **ORDER (Directing Filing of NRC Staff's Initial Disclosures by November 12, 2010)**, dated October 28, 2010, have been served upon the following persons by Electronic Information Exchange.

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MARK M. FICEK AND MATTINGLY TESTING SERVICES, INC. – Docket No. 30-20836-EA
ORDER (Directing Filing of NRC Staff's Initial Disclosures by November 12, 2010)

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

Dated at Rockville, Maryland
this 28th day of October 2010