

July 15, 2011

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	
HONEYWELL INTERNATIONAL INC.)	Docket No. 40-3392
)	
(Metropolis Works Uranium)	ASLBP No. 11-910-01-MLA-BD01
Conversion Facility))	

NRC STAFF'S OPPOSITION TO HEARING REQUEST

INTRODUCTION

The NRC Staff responds to the hearing request Honeywell International Inc. (Honeywell) filed on June 22, 2011.¹ Honeywell challenges the Staff's denial of its exemption request dated April 1, 2009. In its April 1, 2009 request, Honeywell asked to be exempted from NRC regulations designed to ensure that sufficient funds are available for decommissioning a licensee's facility.² In December 2009 the Staff denied Honeywell's exemption request.³ After further consideration following a remand by the U.S. Court of Appeals for the District of Columbia Circuit, the Staff again found that Honeywell's exemption request must be denied.

¹ Request for Hearing on Denial of Decommissioning License Amendment Request (June 22, 2011) (ADAMS Accession No. ML111730810).

² Honeywell Metropolis Works (Docket No. 40-3392)—Request for Extension of Exemption from Decommissioning Financial Assurance Requirements Contained in License Condition 27 in SUB-526 on May 11, 2007 (Apr. 1, 2009) (ADAMS Accession No. ML090920087), as supplemented (October 13, 2009) (ADAMS Accession No. ML092940174).

³ Denial of Exemption Request from 10 CFR Part 30, Appendix C, Regarding Decommissioning Financial Assurance Requirements, Honeywell Metropolis Works, Material License No. SUB-526 (December 11, 2009) (ADAMS Accession No. ML093170604).

The Staff informed Honeywell of its finding in a letter dated April 25, 2011,⁴ which Honeywell now challenges. For the reasons set forth below, the Board should deny Honeywell's hearing request as impermissibly late.⁵

BACKGROUND

Honeywell's hearing request arises out of its 2009 application for an exemption from the NRC's financial assurance requirements for decommissioning. In brief, 10 C.F.R. § 40.36 requires that a source material licensee like Honeywell have sufficient funds to cover the cost of decommissioning its facility.⁶ A licensee has numerous options for meeting its decommissioning funding obligations. These options include prepayment or the use of a surety method such as a surety bond, letter of credit, parent company guarantee, or self-guarantee. See 10 C.F.R. § 40.36(e) (establishing financial requirements and incorporating the tests in Appendices A, C, D and E of 10 C.F.R. Part 30). If the licensee chooses to self-guarantee, it must "furnish[] its own guarantee that funds will be available for decommissioning costs and . . . demonstrat[e] that [it] passes the financial test of Section II." 10 C.F.R. Part 30, App. C, § I. The financial test of Section II, in relevant part, requires that the licensee's tangible net worth exceed by a factor of 10 its current decommissioning cost estimate (*i.e.*, the "10-to-1 test"). Part 30, App. C, § II.A.1.

⁴ Response to Court Remand on Denial of Exemption Request from Title 10 of the *Code of Federal Regulations* Part 30, Appendix C, Regarding Decommissioning Financial Assurance Requirements, Honeywell Metropolis Works (April 25, 2011) (ADAMS Accession No. ML110600286).

⁵ Consistent with 10 C.F.R. § 2.309(h), the Staff is filing this answer within 25 days of being served with Honeywell's hearing request. The general rule in § 2.309(h) applies to the Staff's answer because no specific rule applies. As the Staff explains below, that is not the case with Honeywell's hearing rights, which are specifically governed by § 2.103(b).

⁶ Section 40.36 applies to certain source material licensees. Other NRC regulations establish financial assurance requirements for other types of licensees.

In 2006, Honeywell applied for renewal of its license for the Metropolis Works Facility. Along with its renewal application, Honeywell sought an exemption allowing it to count goodwill, an intangible asset, toward meeting the 10-to-1 test in Section II.⁷ The Staff granted Honeywell's exemption request on May 11, 2007 as part of Honeywell's license renewal.⁸ At that time the Staff added a license condition allowing Honeywell to count goodwill toward meeting the 10-to-1 test for a period of one year.⁹ In 2008 Honeywell asked to extend its exemption for a year,¹⁰ and the Staff granted that request.¹¹

On April 1, 2009, Honeywell sought its third consecutive exemption from the tangible net worth requirement in Section II. Compared to 2007 and 2008, however, the facts relevant to Honeywell's request were materially different. Honeywell's tangible net worth had declined by \$3.814 billion since the Staff granted the 2008 exemption request. By the end of 2008, Honeywell's tangible net worth was negative \$5.265 billion. The Staff thus found that granting an exemption for 2009 could not be justified. The Staff also found unpersuasive one of Honeywell's main arguments supporting its request, which was that granting the exemption

⁷ Honeywell Metropolis Works (Docket No. 40-3392)—Request for Exemption from Decommissioning Financial Assurance Requirements (December 1, 2006) (ADAMS Accession No. ML063390353) with attachment (December 1, 2006) (ADAMS Accession No. ML063390359).

⁸ See Renewal of Honeywell Metropolis Works Source Materials License No. SUB-526 (May 11, 2007) (ADAMS Accession No. ML062140705) at 1 (explaining that the review of Honeywell's exemption request "is documented in Section 11.4 of the TER, and a time limited exemption was granted as reflected in License Condition 27").

⁹ The exemptions ran from May of the first year through May of the second year. In other words, the 2007 exemption applied to the period May 2007 through May 2008. The 2009 exemption, if granted, would have expired in May 2010.

¹⁰ Honeywell Metropolis Works—Request for Extension of Exemption from Decommissioning Financial Assurance Requirements (April 11, 2008) (ADAMS Accession No. ML081060399), as supplemented (May 15, 2008) (ADAMS Accession No. ML081410585).

¹¹ Honeywell Metropolis Works—Extension of One-Year Exemption from the Requirements of 10 CFR 30, Appendix C, Regarding Decommissioning Financial Assurance (August 22, 2008) (ADAMS Accession No. ML082250707).

would be “entirely consistent” with the proposed decommissioning planning rule the NRC had recently published in the *Federal Register*.¹² In fact, Honeywell did not meet the criteria in the proposed rule.

Honeywell appealed the NRC’s decision to the D.C. Circuit. In two preliminary orders, the D.C. Circuit directed the parties to address in their briefs whether the Court had jurisdiction over the NRC’s decision. Orders, Docket No. 10-1022 (June 9, 2010) (Attachment A).¹³ Both parties argued that the Court had jurisdiction over the NRC’s decision because Honeywell’s exemption request involved a license amendment. NRC counsel further explained that, because Honeywell’s request involved a license amendment, under 10 C.F.R. § 2.103(b) Honeywell could seek an administrative hearing on any future denial of its exemption request. Respondent’s Brief, D.C. Cir. Docket No. 10-1022 (August 9, 2010) at 32, 61.

The Court agreed that it had jurisdiction over the NRC’s denial of Honeywell’s exemption request. *Honeywell Int’l, Inc. v. NRC*, 628 F.3d 568, 575–76 (D.C. Cir. 2010).¹⁴ Turning to the merits of the case, the Court found that the NRC did not fully explain why it disallowed Honeywell’s exemption request for 2009. *Id.* at 580–81. In particular, the Court found that the NRC did not adequately explain why, when evaluating Honeywell’s exemption request for 2009, it did not take into account intangible assets the same way it had in 2007 and 2008. *Id.* at 580. The Court also found that, even though the period for which Honeywell was seeking an exemption ended in May 2010, the issue of whether the NRC properly denied Honeywell’s

¹² *Proposed Rule; Decommissioning Planning*, 73 Fed. Reg. 3812 (Jan. 22, 2008).

¹³ Although the Court did not explain the basis for its orders, it may have been concerned over the reasoning in *Brodsky v. NRC*, 578 F.3d 175 (2d Cir. 2009). In *Brodsky*, the Second Circuit found that it did not have subject matter jurisdiction under the Hobbs Act, 28 U.S.C. § 2342, to review the NRC’s grant of a stand-alone exemption from fire protection regulations.

¹⁴ The Court based its jurisdictional finding on the NRC’s treatment of the exemption request as an amendment to Honeywell’s license. 628 F.3d at 575–76.

exemption request was not moot because it was “capable of repetition, yet evading review.” *Id.* at 576–77. The Court therefore vacated the NRC’s December 11, 2009 denial decision and remanded Honeywell’s exemption request for further proceedings. *Id.* at 581.

After further review, the Staff determined that its initial decision was correct and that Honeywell’s exemption request for 2009 must still be denied.¹⁵ The Staff informed Honeywell of its decision in an April 25, 2011 letter.¹⁶ As explained in the letter, the Staff found that numerous factors, some specific to Honeywell and others broader in scope, weighed against granting the exemption. Among those factors, Honeywell’s tangible net worth had declined significantly from 2007 to the end of 2008. This meant that, compared to 2007 and 2008, Honeywell would have needed to rely on significantly more intangible assets in order to meet the 10-to-1 test in Section II of Appendix C. Also significant was that 2009 was the third consecutive year Honeywell sought the same exemption. This increased the Staff’s concern that the circumstances causing Honeywell to seek an exemption were no longer temporary. In addition, the Staff found that, due to a significant weakening of the economy from 2008 to 2009, the public interest was best served by more narrowly granting exemptions from the requirements in Appendix C.

DISCUSSION

Honeywell had 20 days to seek a hearing from the date the Staff denied its exemption request. 10 C.F.R. § 2.103(b)(2). Because the Staff denied Honeywell’s request on April 25,

¹⁵ Consistent with the D.C. Circuit’s remand order, the Staff limited its review to information available as of December 11, 2009. In other words, the Staff reviewed whether it made the correct decision based on available information, not whether it might have made a different decision based on different information.

¹⁶ ADAMS Accession No. ML110600286.

2011, Honeywell should have sought a hearing by May 16, 2011.¹⁷ Honeywell's hearing request, which it filed on June 22, 2011, therefore comes 37 days late.

A. 10 C.F.R. § 2.103(b) Governs an Applicant's Hearing Rights

Honeywell argues that its hearing request is timely as measured by 10 C.F.R. § 2.309(b)(4)(ii). Hearing Request at 11. Section 2.309(b)(4)(ii) states that, in proceedings not listed in either the *Federal Register* or on the NRC's web page identifying "major actions," a person can seek a hearing up to "[s]ixty (60) days after the requestor receives actual notice of a pending application, but not more than sixty (60) days after agency action on the application." However, this section does not govern an *applicant's* right to a hearing. An applicant's right to a hearing is set forth specifically in § 2.103(b). See *Graystar, Inc.* (Suite 103, 200 Valley Road, Mt. Arlington, NJ 07856), CLI-00-10, 51 NRC 295, 296 & n.1 (2000) (applicant hearing request filed under § 2.103(b)); *Safety Light Corporation, Bloomsburg, Pennsylvania Site* (Materials License Amendment), 61 NRC 448, 448 (2005) (same); *In the Matter of Dr. James E. Bauer* (Order Prohibiting Involvement in NRC-Licensed Activities), LBP-95-7, 41 NRC 323, 327 (1995) (same).¹⁸ The Staff is unaware of any case identifying § 2.309(b)(4)(ii) as the source of an applicant's hearing rights. Moreover, even if an applicant could seek a hearing under § 2.309,

¹⁷ Because May 15, 2011 fell on a Sunday, Honeywell's hearing request was due May 16, 2011. 10 C.F.R. § 2.306(a).

¹⁸ Section 2.103(b) has long been the source of an applicant's hearing rights. In the 1987 proposed revisions to its Rules of Procedure, the NRC explained that "[t]he [revised] requirements in § 2.1205 for the filing of hearing petitions *would not change the requirements in § 2.103(b) for the time for filing applicant hearing petitions* following a notice of denial or a notice of proposed denial." *Informal Hearing Procedures for Materials Licensing Adjudications*, 52 Fed. Reg. 20,089, 20,089 (May 29, 1987) (proposed rule) (emphasis added).

the deadline for Honeywell's hearing request would have been June 1, 2009, which was 60 days from when Honeywell knew its application was pending before the NRC.¹⁹

B. Honeywell Had Actual Notice That § 2.103(b) Governs Its Hearing Rights

In August 2010, during the litigation before the D.C. Circuit, NRC counsel specifically informed Honeywell that under § 2.103(b) it could seek a hearing on any future denial of its exemption request. Respondent's Brief at 32 (Attachment B at 1). Counsel explained that "NRC hearing rules at 10 C.F.R. § 2.103(b) afford Honeywell the right to a plenary hearing before the NRC on its amendment application seeking an exemption." *Id.* Indeed, in its hearing request Honeywell acknowledges NRC counsel's statement that § 2.103(b) governs its hearing rights. Hearing Request at 11. NRC counsel further stated before the D.C. Circuit that "nothing prevents Honeywell from seeking an exemption for future periods and, if it wishes, a plenary hearing on its request. See 10 C.F.R. § 2.103(b)(2)." Respondent's Brief at 61 (Attachment B at 2). In addition, NRC counsel included the full text of § 2.103 in the "Applicable Statutes and Regulations" section of the NRC's brief (Attachment B at 3–4). These statements and references provided Honeywell actual notice of both the source of its hearing rights and the 20-day deadline for requesting a hearing.

Whether Honeywell had administrative hearing rights was not a passing issue before the D.C. Circuit. To the contrary, in June 2010 the D.C. Circuit issued orders directing the parties to address in their briefs whether the Court had jurisdiction over the case (Attachment A). Both parties argued that the Court had jurisdiction over the case, with NRC counsel explaining that

¹⁹ Although § 2.309(b)(4)(ii) allows some petitioners to request a hearing up to 60 days after the NRC takes action on an application, this deadline applies only to petitioners who have not previously received actual notice of the application. To read the second part of § 2.309(b)(4)(ii) as extending this deadline to all persons would render meaningless the "actual notice" language in the first part. See *McClain v. Retail Food Employers Joint Pension Plan*, 413 F.3d 582, 587 (7th Cir. 2005) ("it is an elementary canon of construction that a statute should be interpreted so as not to render one part inoperative, superfluous, or meaningless") (citation and internal quotation marks omitted).

Honeywell could seek an NRC hearing in the event of any future denial of its exemption request. This is the context in which NRC counsel cited § 2.103(b). Accordingly, in addition to receiving actual notice that its hearing rights came from § 2.103(b), Honeywell should have had heightened awareness of the regulation's applicability.

C. The Board Should Deny Honeywell's Hearing Request

Despite receiving actual notice that § 2.103(b) applied to its hearing request, Honeywell relied on § 2.309(b)(4)(ii) as the source of its hearing rights. Hearing Request at 11. As a result, Honeywell missed its hearing request deadline by 37 days. Under these circumstances the Board should deny Honeywell's hearing request. *Cf. North Atlantic Energy Service Corp.* (Seabrook Station, Unit 1), CLI-99-6, 49 NRC 201, 223 (1999) (holding that a petitioner's failure to read carefully the governing procedural regulations does not excuse its late filing); *Florida Power & Light Co.* (Calvert Cliffs Nuclear Plant, Units 1 and 2 et al.), CLI-06-21, 64 NRC 30, 33 (2006) (rejecting late-filed hearing request where petitioner initially believed it should present its case before another federal agency).²⁰ This is especially true because even a brief review of § 2.103(b) would have confirmed for Honeywell that the regulation applied to its hearing request and set a 20-day deadline for that request.²¹ Moreover, if Honeywell had any questions about

²⁰ *Cf. Detroit Edison Co.* (Indep. Spent Fuel Storage Installation), LBP-09-20, 70 NRC 565, 573 (2009) (declining to dismiss petition as late where, due to the lack of constructive or actual notice before the filing deadline, petitioners "could not have filed within the time specified in the notice of opportunity for hearing"). Here, Honeywell unquestionably had actual notice of the regulation governing its hearing rights. Honeywell's hearing request, which cites NRC counsel's statement regarding the applicability of § 2.103(b), establishes that much. Hearing Request at 11.

²¹ Reviewing § 2.103 would not have been burdensome; it is a concise regulation that was reprinted in the "Applicable Statutes and Regulations" section of the NRC's brief before the D.C. Circuit. *Compare AmerGen Energy Co., LLC* (License Renewal for Oyster Creek Nuclear Generating Station), CLI-09-07, 69 NRC 235, 271-72 (2009) ("As we have stressed previously, our contention admissibility and timeliness rules require a high level of discipline and preparation by petitioners, 'who must examine the publicly available material and set forth their claims and the support for their claims at the outset.'") (citation omitted).

its hearing rights after receiving the April 25, 2011 denial letter, it could have used the contact information the Staff provided in that letter.²²

The Staff acknowledges that, in the denial letter, it did not state that the applicant could seek a hearing within 20 days. This was inconsistent with § 2.103(b)(2), which requires such notice. In a prior case where the Staff partially denied a license application without providing this type of notice, the Staff agreed that the time for the applicant to request a hearing could be tolled until the notice issued. *Bauer*, 41 NRC at 328.

The facts here differ significantly from those in *Bauer*. In *Bauer*, the applicant was not told specifically *which* parts of its application the Staff denied. 41 NRC at 327–28, 331. Here, the Staff made clear that Honeywell’s exemption request was being denied in its entirety. In *Bauer* there was also no evidence the NRC informed the applicant of its hearing rights at any time prior to partially denying its application. That also is not the case here, where NRC counsel specifically informed Honeywell that under § 2.103(b) it could seek a hearing on any future denial of its exemption request. Accordingly, unlike in *Bauer*, there is no basis for tolling the May 16, 2011 deadline applying to Honeywell’s hearing request.

A review of general case law confirms that there is no basis for tolling Honeywell’s hearing request deadline. Equitable tolling generally will not apply where the claimant failed to exercise due diligence to preserve its legal rights. *Irwin v. Department of Veterans Affairs*, 498 U.S. 89, 96 (1990); *Pace v. DiGuglielmo*, 544 U.S. 408, 418 (2005). See also *Heideman v. PFL, Inc.*, 904 F.2d 1262, 1266 (8th Cir.1990), *cert. denied*, 498 U.S. 1026 (1991) (“Equitable tolling is appropriate only when the circumstances that cause a plaintiff to miss a filing deadline

²² See Denial Letter at 2 (“If there are any questions regarding this action, please contact Ms. Tilda Liu, NRC Project Manager for Honeywell Metropolis Works, at 301-492-3217 or via e-mail to Tilda.Liu@nrc.gov.”).

are out of his hands.”). To the extent Honeywell was unaware of the 20-day deadline for asserting its hearing rights, that can only be because Honeywell failed to review § 2.103(b), the source of its rights. In that case Honeywell failed to exercise due diligence, and there is no basis for tolling its May 16, 2011 hearing request deadline.

CONCLUSION

Because Honeywell failed to request a hearing until more than five weeks after the applicable deadline, the Board should deny Honeywell’s hearing request as impermissibly late.

Respectfully submitted,

*/Signed (electronically) by/
Michael J. Clark*

Michael J. Clark
Patricia A. Jehle
Emily L. Monteith
Counsel for the NRC Staff

Dated at Rockville, Maryland
this 15th day of July, 2011

Attachments:

Attachment A: Orders, D.C. Cir. Docket No. 10-1022 (both dated June 9, 2010)

Attachment B: Respondent’s Brief, D.C. Cir. Docket No. 10-1022 (August 9, 2010),
pages 32, 61; pages 17–18 of Applicable Statutes and Regulations

ATTACHMENT A

Orders, D.C. Cir. Docket No 10-1022 (both orders issued June 9, 2010)

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 10-1022

September Term 2009

NRC-SUB-526

Filed On: June 9, 2010

Honeywell International, Inc.,

Petitioner

v.

Nuclear Regulatory Commission and United
States of America,

Respondents

BEFORE: Rogers, Garland, and Brown, Circuit Judges

ORDER

It is ordered, on the court's own motion, that while otherwise not limited, the parties address in their briefs whether the court has jurisdiction over the United States Nuclear Regulatory Commission's December 11, 2009 decision. See 28 U.S.C. § 2342(4); 42 U.S.C. §§ 2239(a), (b)(1).

Per Curiam

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 10-1022

September Term 2009

NRC-SUB-526

Filed On: June 9, 2010

Honeywell International, Inc.,

Petitioner

v.

Nuclear Regulatory Commission and United
States of America,

Respondents

ORDER

Upon consideration of the court's order filed this date, directing the parties to address in their briefs whether the court has jurisdiction over the United States Nuclear Regulatory Commission's December 11, 2009 decision, it is

ORDERED that petitioner submit a revised brief to include jurisdiction. The following revised briefing schedule will now apply in this case:

Petitioner's Revised Brief and Appendix	June 18, 2010
Respondents' Brief	August 2, 2010
Petitioner's Reply Brief	August 16, 2010

FOR THE COURT:
Mark J. Langer, Clerk

BY: /s/
Heather Stockslager
Deputy Clerk/LD

ATTACHMENT B

Respondent's Brief, D.C. Cir. Docket No 10-1022 (August 9, 2010), pages 32, 61;
pages 17–18 of Applicable Statutes and Regulations

regime. Hence, any renewed exemption application will be decided on the basis of Honeywell's financial circumstances at the time and the then-existing regulatory scheme, not the record here, rendering the current application and decision irrelevant.

And, third, even if Honeywell should apply for a future exemption, the decision by the NRC challenged here, whether reversed or not, will have no bearing whatever on the outcome. Section 189 of the AEA, 42 U.S.C. § 2239 and NRC hearing rules at 10 C.F.R. § 2.103(b) afford Honeywell the right to a plenary hearing before the NRC on its amendment application seeking an exemption. And in proceedings for "amending licenses," *inter alia*, the Atomic Safety and Licensing Board "shall perform the adjudicatory functions" determined by the Commission. Such a proceeding results in a Board decision, containing "findings of fact and conclusions of law" on issues controverted by the parties. 10 C.F.R. § 2.340(a). And the Board's decision is reviewable by the Commission. 10 C.F.R. § 2.341.

Accordingly, Honeywell can easily neutralize any future, adverse decision by the NRC regulatory staff by electing to demand a hearing before the Board – a proceeding in which NRC staff would be just another party. *See* 10 C.F.R. § 2.1202(b)(1)(i) and (b)(3). As such, there can be "no reasonable expectation" that the "wrong" alleged by Honeywell in this

Further, the exemption sought by Honeywell, even had it been granted, would have expired on May 11, 2010. At this time, Honeywell has not applied for an exemption covering any future period. A judicially-crafted exemption would thus impinge upon NRC's administration of the Atomic Energy Act and create rights greater than those Honeywell would have had in the absence of a lawsuit. On the other hand, nothing prevents Honeywell from seeking an exemption for future periods and, if it wishes, a plenary hearing on its request. *See* 10 C.F.R. § 2.103(b)(2). That is relief enough.

10 C.F.R. § 2.103 Action on applications for byproduct, source, special nuclear material, facility and operator licenses.

(a) If the Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, Director, Office of Federal and State Materials and Environmental Management Programs, or Director, Office of Nuclear Material Safety and Safeguards, as appropriate, finds that an application for a byproduct, source, special nuclear material, facility, or operator license complies with the requirements of the Act, the Energy Reorganization Act, and this chapter, he will issue a license. If the license is for a facility, or for receipt of waste radioactive material from other persons for the purpose of commercial disposal by the waste disposal licensee, or for a construction authorization for a HLW repository at a geologic repository operations area under parts 60 or 63 of this chapter, or if it is to receive and possess high-level radioactive waste at a geologic repository operations area under parts 60 or 63 of this chapter, the Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, Director, Office of Nuclear Material Safety and Safeguards, or Director, Office of Federal and State Materials and Environmental Management Programs, as appropriate, will inform the State, Tribal and local officials specified in § 2.104(e) of the issuance of the license. For notice of issuance requirements for licenses issued under part 61 of this chapter, see § 2.106(d).

(b) If the Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, Director, Office of Federal and State Materials and Environmental Management Programs, or Director, Office of Nuclear Material Safety and Safeguards, as appropriate, finds that an application does not comply with the requirements of the Act and this chapter he may issue a notice of proposed denial or a notice of denial of the application and inform the applicant in writing of:

(1) The nature of any deficiencies or the reason for the proposed denial or the denial, and

(2) The right of the applicant to demand a hearing within twenty (20) days from the date of the notice or such longer period as may be specified in the notice.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	
HONEYWELL INTERNATIONAL INC.)	Docket No. 40-3392-MLA
)	ASLBP No. 11-910-01-MLA-BD01
)	
(Metropolis Works Uranium)	
Conversion Facility))	Date: July 15, 2011

CERTIFICATE OF SERVICE

I hereby certify that copies of the "NRC STAFF'S OPPOSITION TO HEARING REQUEST" in this proceeding have been served via the Electronic Information Exchange (EIE) this 15th day of July, 2011, which to the best of my knowledge resulted in transmittal of the foregoing to those on the EIE Service List for the above captioned proceeding.

/Signed (electronically) by/

Michael J. Clark

Michael J. Clark
Counsel for the NRC Staff