

UNCLASSIFIED  
DATE

95 AUG 23 AM 12

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

FOR THE SECRETARY  
OF THE NUCLEAR REGULATORY COMMISSION  
DATE

Before Administrative Judge  
Marshall E. Miller, Presiding Officer

Administrative Judge  
Dr. Harry Foreman, Special Assistant

In the Matter of  
  
ADVANCED MEDICAL SYSTEMS, INC.  
Cleveland, Ohio

Docket No. 30-16055-ML-Ren  
ASLBP No. 95-707-02-ML-Ren  
(Source Material License  
No. 34-19089-01)

August 23, 1995

MEMORANDUM AND ORDER  
(Ruling on Hearing and Intervention Petitions)

I. Local Emergency Planning Committee

The Presiding Officer has received an affidavit from Edmund M. Mecklenburg, an official of Cuyahoga County, stating that the Local Emergency Planning Committee ("LEPC") is a County Board under Section 3750.03 of the Ohio Revised Code and that it represents the interests of Cuyahoga County in this proceeding. LEPC's participation in this proceeding was made contingent upon receipt of such an affidavit.<sup>1</sup>

<sup>1</sup>LBP-95-03, 41 NRC \_\_\_\_ (Slip Op. at 11-13, 15).

FR-2

Accordingly, LEPC may participate in this proceeding as an interested governmental agency under and to the extent allowed by 10 C.F.R. § 2.1211(b).

## II. Village of Newburgh Heights, Ohio

Another local government entity, the Village of Newburgh Heights, Ohio ("Village"), has requested intervention as an interested municipality under the provisions of 10 C.F.R. § 2.1211(b). The NRC Staff has responded by supporting the intervention petition and there has been no opposing response.

The Village, as required by the Section 2.1211(b), has set forth its areas of concern. Those include concerns about an alleged failure of AMS to control Cobalt-60 contamination within its facility; an alleged failure of AMS to comply with regulations regarding the disposal of Cobalt-60; an alleged failure of AMS to prepare adequate emergency response plans and to conduct plan exercises; an alleged failure of AMS to post adequate funding for decommissioning; and an alleged failure of AMS to provided adequate financial assurance to cover liabilities. Since several of these concerns are identical to those listed in the December 22,

1994 letter from John A. Grobe, Chief, Nuclear Materials Inspection Section 2 to David Cesar, Treasurer of AMS detailing deficiencies in the AMS license application, the Village has pled areas of concern germane to this proceeding.

The Village states in its petition that it has been and could be affected by radioactive discharges into the sewer system that runs through its boundaries. In addition, it states that the residents of the Village are ratepayers of the Northeast Ohio Regional Sewer District, another party to this proceeding, and that those residents would be affected in the event that AMS could not compensate the District for contamination of the sewer. The Village claims in its petition that AMS failed to prevent a recent release of contaminated water into the sewer system during the pendency of this proceeding. The Village's petition was timely filed and it may participate in this proceeding as an interested municipality under and to the extent allowed by 10 C.F.R. § 2.1211(b).

### III. Procedural Issues

The Presiding Officer has determined that this proceeding shall be held in abeyance until the Staff has completed its review of the AMS license application. The

Presiding Officer believes that holding this proceeding in abeyance will remove any possibility that issues developed on the basis of an incomplete hearing file would have to be relitigated as the hearing file is updated with new information. When there is indication from the Staff that a decision has been made to either grant or deny the AMS application, the Presiding Officer will proceed accordingly.

#### IV. ORDER

For all the foregoing reasons and upon consideration of the entire record in this proceeding, it is, this 21st day of August, 1995

ORDERED

1. The Local Emergency Planning Committee of Cuyahoga County, Ohio may participate as a party to this proceeding under and to the extent provided by 10 C.F.R. § 2.1211(b).

2. The Village of Newburgh Heights, Ohio may participate as a party to this proceeding under and to the extent provided by 10 C.F.R. § 2.1211(b).

3. This proceeding is held in abeyance until such time as the Presiding Officer is informed by the Staff that review of the AMS license application has been completed and

that the hearing file has been updated to reflect the conclusions of that review.

  
Marshall E. Miller, Presiding Officer  
ADMINISTRATIVE JUDGE

Frederick, Maryland

August 23, 1995

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of

ADVANCED MEDICAL SYSTEMS, INC.  
Cleveland, Ohio  
(Renewal of Material License No.  
34-19089-01)

Docket No.(s) 30-16055-ML-REN

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB MEMO & ORDER (RE PETITIONS) have been served upon the following persons by U.S. mail, first class, except as otherwise noted and in accordance with the requirements of 10 CFR Sec. 2.712.

Office of Commission Appellate  
Adjudication  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

Robert Pierce  
Senior Attorney  
Atomic Safety and Licensing Board  
Mail Stop T-3 F 23  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

Administrative Judge  
Marshall E. Miller  
Presiding Officer  
ASLBP  
512 Magnolia  
Frederick, MD 21701

Administrative Judge  
Harry Foreman  
Special Assistant  
ASLBP  
1564 Burton Avenue  
St. Paul, MN 55108

Bernard M. Bordenick, Esq.  
Eugene J. Holler, Esq.  
Office of the General Counsel  
Mail Stop 0-15 B 18  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

Henry E. Billingsley, II, Esq.  
Arter & Hadden  
1100 Huntington Building  
925 Euclid Avenue  
Cleveland, OH 44115

Dwight A. Miller, Esq.  
Stavole & Miller  
1604 Illuminating Building  
55 Public Square  
Cleveland, OH 44113

Martha R. McCorkle  
Assistant Director of Law  
City of Cleveland Department of Law  
Room 106, City Hall  
601 Lakeside Avenue  
Cleveland, OH 44114

Docket No.(s)30-16055-ML-REN  
LB MEMO & ORDER (RE PETITIONS)

Michael S. Kalstrom  
Secretary, Cuyahoga County LEPC  
Cuyahoga Emergency Management  
Assistance Center  
1255 Euclid Avenue, Room 102  
Cleveland, OH 44115

Chris Trepal  
Earth Day Coalition  
3606 Bridge Avenue  
Cleveland, OH 44113

Thomas E. Lenhart  
Assistant General Counsel  
Northeast Ohio Regional Sewer District  
3826 Euclid Avenue  
Cleveland, OH 44115

Dated at Rockville, Md. this  
23 day of August 1995

  
Office of the Secretary of the Commission