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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

OFFICE OF SECRETARY
RULEMAKING AND
ADJUDICATION

ATOMIC SAFETY AND LICENSING BOARD PANEL

Before Administrative Judges:
Peter B. Bloch, Presiding Officer
Richard F. Cole, Special Assistant

SERVED AUG 19 1998

In the matter of

INTERNATIONAL URANIUM (USA)
CORPORATION

(Receipt of Material from
Tonawanda, New York)

Docket No. 40-8681-MLA-4

Re: Material License Amendment

ASLBP No. 98-748-03-MLA

MEMORANDUM AND ORDER
(Dismissal of Envirocare)

On June 22, 1998, Petitioner Envirocare of Utah, Inc. ("Envirocare") filed a Request for Hearing challenging the Nuclear Regulatory Commission's ("NRC") amendment of International Uranium (USA) Corporation's ("IUSA") Source Material License SUA-1358 to allow for the receipt and "processing" of uranium-bearing material from the Ashland 2 site (Formerly Utilized Sites Remedial Action Program, "FUSRAP") near Tonawanda, New York. On August 4, the Presiding Officer authorized Envirocare to amend its petition by stating why it should not be dismissed for lack of standing due to the NRC's decision in *Quivira Mining Company* (Ambrosia Lake Facility, Grants, New Mexico), CLI-98-11, 47 NRC ____, *slip op.* (July 17, 1998).

SECY-039

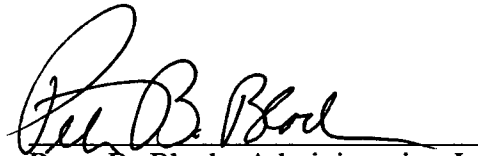
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On August 4, 1998, Envirocare filed an Amendment to its Request for Hearing ("Amendment"). Having reviewed the Amendment, I am convinced that this case is on all fours with *Quivira* and must be dismissed. Envirocare relies on *National Credit Union Administration v. First National Bank & Trust Co.*, 118 S. Ct. 927 (1998). However, it acknowledges, on page 2 of its Amendment, that the Commission was aware of *National Credit Union* when it issued its *Quivira* opinion.

In this case, Envirocare considers itself to be injured because IUSA allegedly will gain a competitive advantage from the grant of the challenged license. However, it does not allege that it suffers any environmental or safety effect from operations under the license. As in *Quivira*, Envirocare's preferred interpretation of *National Credit Union* would give nuclear facility or materials competitors a vastly expanded right to sue even for alleged harms that fall outside the "zone of interests" of either the National Environmental Policy Act or the Atomic Energy Act. I conclude that Envirocare's interpretation is incorrect.

The Envirocare petition is *dismissed*.

IT IS SO ORDERED.


Peter B. Bloch, Administrative Judge
Presiding Officer

Rockville, Maryland

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CORPORATION (IUSA)
(Receipt of Material from
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Docket No.(s) 40-8681-MLA-4

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB M&O-DISMISSAL OF ENVIROCARE 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

Administrative Judge
Peter B. Bloch
Presiding Officer
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Administrative Judge
Richard F. Cole
Special Assistant
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Mitzi A. Young, Esq.
Office of the General Counsel
Mail Stop - 0-15 B18
U.S. Nuclear Regulatory Commission
Washington, DC 20555

David J. Jordan, Esq.
Jill M. Pohlman, Esq.
Stoel Rives LLP
201 South Main Street, #1100
Salt Lake City, UT 84111

Denise Chancellor, Esq.
Fred G Nelson, Esq.
Utah Attorney General's Office
160 East 300 South, 5th Floor
P.O. Box 140873
Salt Lake City, UT 84114

Anthony J. Thompson, Esq.
Frederick S. Phillips, Esq.
Shaw, Pittman, Potts and Trowbridge
2300 N Street, NW
Washington, DC 20037

Dated at Rockville, Md. this
19 day of August 1998

Adria T. Byrdson
Office of the Secretary of the Commission