

DOCKETED
USNRC
December 17, 1998

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

'98 DEC 17 P2:28

ATOMIC SAFETY AND LICENSING BOARD PANEL

OFFICE OF SECRETARY
NUCLEAR REGULATORY COMMISSION
ADJUDICATION STAFF

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

SERVED DEC 17 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
(Mr. Sleight's Petition for Leave to Intervene)

In his petition, Mr. Sleight has set forth a variety of allegations that he is damaged by the disposal of nuclear wastes by International Uranium (USA) Corporation (IUC), which already is licensed to dispose of nuclear wastes. Mr. Sleight has not addressed directly the subject of this hearing, a license amendment permitting IUC to receive the Ashland 2 materials, being shipped to it from Tonawanda, New York. Because he has not said anything about these materials, Mr. Sleight has not demonstrated that he has suffered "injury in fact" from the amendment application and he has not, therefore, shown that he is entitled to become a party to this hearing, in which the State of Utah is a participant seeking to contest the amendment.

In an earlier proceeding involving IUC, I stated:

SECY-039

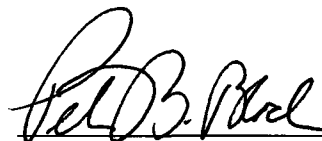
D502
19816

The relevant question for standing purposes is the composition of the "tailings" or waste material after the Cotter Concentrates has been processed. Since the disposal of tailings is already authorized under an existing license, the question of possible injury to the petitioners is whether the tailings from the milling authorized by this amendment will be more hazardous than tailings already authorized under the license. Petitioners have not provided any information, beyond conjecture, that the tailings represent an increased health or safety hazard.

International Uranium (USA) Corporation, 46 NRC 55 (1997) at 56. By analogy, the important question in this case is whether the activities covered by the amendment concerning Ashland 1 materials represent an increased health or safety hazard or are otherwise illegal. The harm alleged by Mr. Sleight must relate to this particular amendment.

Mr. Sleight could be permitted to make up for this deficiency by filing an amendment to his petition. However, the State of Utah already is diligently pursuing its position that the amendment concerning the Ashland 2 materials is improper.¹ There is, therefore, an ongoing proceeding that could protect Mr. Sleight. I therefore choose to deny Mr. Sleight a discretionary opportunity to amend his petition. Accordingly, his petition for a hearing is *denied*.

IT IS SO ORDERED.


Peter B. Bloch, Administrative Judge
Presiding Officer

Rockville, Maryland

¹State of Utah's Brief in Opposition to International Uranium (USA) Corporation's Source Material License Amendment, December 7, 1998.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of

INTERNATIONAL URANIUM (USA)
CORPORATION (IUSA)
(Receipt of Material from
Tonawanda, New York)

Docket No.(s) 40-8681-MLA-4

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB M&O--MR. SLEIGHT'S PETITION 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

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
17 day of December 1998


Office of the Secretary of the Commission