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

OFFICE OF THE
SECRETARY
ADJUTANT GENERAL STAFF

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

SERVED JUN 25 1999

In the matter of

INTERNATIONAL URANIUM (USA)
CORPORATION

(Receipt of Material from
St. Louis, Missouri)

Docket No. 40-8681-MLA-7

Re: Material License Amendment

ASLBP No. 99-766-06-MLA

MEMORANDUM AND ORDER
(Dismissal of Kenneth Sleight)

On June 2, 1999, Mr. Ken Sleight submitted by fax 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 a site being managed under the Formerly Utilized Sites Remedial Action Program ("FUSRAP") near St. Louis, Missouri.¹

Mr. Sleight's petition bares a distinct resemblance to the petition he also filed in an earlier amendment case involving IUSA, Docket No. 40-8681-MLA-5. In that case, we

¹On June 11, 1999, IUSA opposed the Petition of Ken Sleight and on June 16, 1998, the Staff of the Nuclear Regulatory Commission (Staff) also filed an opposition.

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permitted Mr. Sleight to amend his petition to meet the NRC's standing requirements. LBP-99-8, February 19, 1999. In particular, he was advised that in an amendment case, such as this, he must show how he is injured by the *amendment* rather than by the operations that were already authorized by the license that is being amended. Accordingly, Mr. Sleight is on notice of the standing requirements and it is appropriate to act now to determine the merits of his petition.

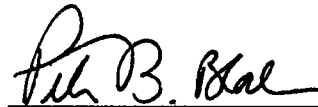
After reviewing Mr. Sleight's petition in light of legal requirements, I reach the same conclusion I reached in the earlier case. Mr. Sleight has not demonstrated the standing required to obtain a hearing on his concerns. In particular, since the disposal of tailings is already authorized under an existing license, the question of possible injury to Mr. Sleight is whether he will be injured because the tailings from the milling authorized by this amendment will be more hazardous than tailings already authorized under the license. *International Uranium (USA) Corporation* (White Mesa Uranium Mill), LBP-97-14, 46 NRC 55, 56 (1997). As I wrote in *International Uranium (USA) Corporation* (Receipt of Additional Material from Tonawanda, New York), LBP-99-8, 49 NRC 131, 133-134 (1999):

With respect to . . . Mr. Sleight[,] . . . [he does] not have standing to intervene as a party to the proceeding. [He] . . . has failed to demonstrate that, as a result of the amendment, it will likely suffer injury that is "distinct and palpable, particular and concrete, as opposed to being conjectural or hypothetical." See *International Uranium (USA) Corp.*, CLI-98-6, 47 NRC 116 (1998), citing *Steel Co. v. Citizens for a Better Environment*, 118 S. Ct. 1003, 1016 (1998); *Warth v. Seldin*, 422 490, 501, 508, 509 (1975); *Sequoyah Fuels Corp.* (Gore, Oklahoma Site), CLI-94-12, 40 NRC 64, 72 (1994). [He has] . . . not shown a harm that is distinct and apart from that caused by the initial licensing and continued operation of the facility. See *Energy Fuels, Inc.*, LBP-94-33, 40 NRC 151, 153-54 (1994). . . .

While Mr. Sleight mentions the processing and storage of material from the Ashland 1 (as well as the Ashland 2) site, the injuries claimed stem from general concerns about operations at White Mesa and general objections to nuclear-related activities in the region and its perceived effect on his business, his other activities in the region, the local economy, and cultural resources. Such general "injuries" are not caused by the contested license amendment and are not sufficient to support standing. *See Cleveland Electric Illuminating Co.* (Perry Nuclear Power Plant, Unit 1), CLI-93-1, 38 NRC 87, 95 n.10 (1993) (standing requires more than general interests in the cultural, historical, and economic resources of a geographic area), *citing, Sierra Club v. Morton*, 405 U.S. 727, 734-35 (1972). Moreover, Mr. Sleight's claims of harm from the processing of the Ashland 1 material are speculative since he does not specify a credible means by which the proposed action could directly harm him, and thus, he fails to describe an injury that is "distinct and palpable" from his general concerns about the continued operation of the facility. *See International Uranium (USA) Corp.*, CLI-98-6, 47 NRC at 117-118; *Sequoyah Fuels Corp.*, CLI-94-12, 40 NRC at 72; *Energy Fuels, Inc.*, LBP-94-33, 40 NRC at 153-54.

Accordingly, for the same basic reasons expressed in LBP-99-8, Mr. Sleight's petition in this proceeding is dismissed.

IT IS SO ORDERED.



Peter B. Bloch
Peter B. Bloch, Administrative Judge
Presiding Officer

Rockville, Maryland

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of

INTERNATIONAL URANIUM (USA)
CORPORATION (IUSA)
(Request for Materials License
Amendment)

Docket No.(s) 40-8681-MLA-7

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB MEMO & ORDER (LBP-99-24) 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.

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Dated at Rockville, Md. this
25 day of June 1999


Office of the Secretary of the Commission