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USNRC

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

'98 MAR 23 P12:21

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

OFFICE OF THE SECRETARY
RULING, DECISIONS AND
ADJUDICATION STAFF

Charles Bechhoefer, Chairman
Dr. Jerry R. Kline
Dr. Peter S. Lam

SERVED MAR 23 1998

In the Matter of

Docket No. IA 97-070

MAGDY ELAMIR, M.D.
Newark, New Jersey

ASLBP No. 98-734-01-EA

Order Superseding Order
Prohibiting Involvement in
NRC-Licensed Activities
(Effective Immediately)

March 23, 1998

MEMORANDUM AND ORDER

(Telephone Conference: Staff Response to Stay Request)

In our Memorandum and Order (Deferral Pending Department of Justice Investigation), dated November 18, 1997, we stayed this proceeding (at the behest of Dr. Magdy Elamir, but supported by the NRC Staff) pending completion of a criminal investigation by the Department of Justice. The stay was to have expired on March 5, 1998 but was subject to extension under defined circumstances.

On March 3, 1998, Dr. Elamir filed a motion to extend the stay for an additional 90 days, through June 1, 1998, or until 10 business days from the date the Department of Justice declines prosecution of Dr. Elamir and Newark Medical Associates. By our Memorandum and Order (Extension of Stay), dated March 5, 1998, we extended the stay pending

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our receipt of the Staff's response to Dr. Elamir's motion (which was scheduled to be filed on March 23, 1998).

On March 20, 1998, at the Staff's request, we conducted a telephone conference call to consider a Staff request to extend its response time until Wednesday, March 25, 1998. Participating in the call were Judges Charles Bechhoefer and Jerry R. Kline (Judge Peter S. Lam was not available), Thomas H. Lee, II, Esq., for Dr. Elamir, Catherine L. Marco, Esq., for the NRC Staff, and Lee S. Dewey, Esq., counsel for the Atomic Safety and Licensing Board Panel.

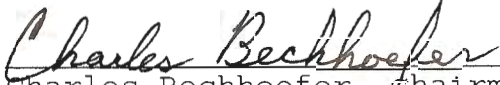
During the call, the Staff indicated that it had contacted the Department of Justice concerning the ongoing investigation and advised that it would have further advice to render by March 25. Mr. Lee offered no objection to the Staff's request, and the Board granted it.

During the call, the Board also discussed potential consolidation or simultaneous scheduling with the proceeding (pending before the same Licensing Board) involving Dr. Aharon Ben-Haim. The hearing for that proceeding is currently scheduled for May 27-29, 1998, in Newark, New Jersey. The parties acknowledged that many witnesses in each proceeding are likely to be the same. The parties agreed to consider the feasibility of such procedures as soon as the stay of Dr. Elamir's proceeding may appropriately be lifted.

In conclusion, the Staff's time for response to Dr. Elamir's March 3, 1998 stay request is accordingly extended until March 25, 1998.

IT IS SO ORDERED.

For the Atomic Safety and
Licensing Board



Charles Bechhoefer, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
March 23, 1998

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of

MAGDY ELAMIR, M.D.

(Superseding Order Prohibiting
Involvement in Licensed Activities)

Docket No.(s) IA 97-070

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB M&O-TELEPHONE CONFERENCE... 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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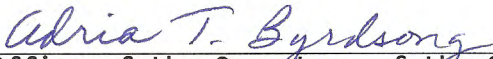
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Dated at Rockville, Md. this
23 day of March 1998


Office of the Secretary of the Commission