

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD PANEL

Before the Licensing Board:

G. Paul Bollwerk, III, Chairman
Michael M. Gibson
Dr. Gary S. Arnold

In the Matter of
JAMES CHAISSON
(Enforcement Action)

Docket No. IA-14-025-EA
ASLBP No. 14-932-02-EA-BD01
May 19, 2015

MEMORANDUM AND ORDER

(Requesting Additional Information Regarding Mr. Chaisson's Status)

On May 4, 2015, the Licensing Board requested that the NRC staff file a report regarding the status of the pending April 17, 2015 joint motion seeking Board approval of an attached agreement by the parties to settle this case and terminate this proceeding in light of hearing requestor James Chaisson's apparent scheduled sentencing for a criminal offense in Utah. See Licensing Board Memorandum and Order (Requesting Staff Report Regarding Joint Settlement Agreement) (May 4, 2015) at 2 (unpublished). The staff filed its report on May 18, see NRC Staff Response to Board Request for Report Regarding Joint Settlement Agreement (May 18, 2015), which, as we explain below, prompts an additional Board request for information.

In its May 18 submission, the staff reports that during a May 8 telephone call with staff counsel, Mr. Chaisson indicated that while he was required to attend a sentencing hearing in Utah on Monday, May 11, regarding a criminal matter, "he did not anticipate any jail time as a result of the hearing." Id. at 1. The report also states, however, that the staff's attempts to contact Mr. Chaisson subsequent to his court date have been unsuccessful and that, "[b]ased

on an internet search of publicly available sources, the Staff believes that Mr. Chaisson is currently incarcerated.” Id.

In its report, the staff also recognizes that, regardless of any current incarceration, Mr. Chaisson’s previous repeated failures to make himself available for a Board-requested teleconference to discuss the April 17 joint motion would provide cause for a Board-entered default against him. The staff nonetheless states that, despite his current status, it still believes a settlement agreement with Mr. Chaisson can be achieved. The staff thus suggests that the Board defer ruling on the parties April 17 joint motion until Mr. Chaisson can participate in a teleconference with the Board and parties to discuss the proposed settlement agreement, a teleconference the staff indicates it fully supports given that Mr. Chaisson’s understanding of the terms and effect of the settlement agreement are paramount to successful implementation of the settlement agreement. See id. at 2.

Finally, declaring that Mr. Chaisson’s hearing request challenging the July 2014 staff enforcement order at issue in this proceeding has effectively stayed that order, the staff asserts that permitting this stay to continue indefinitely would be inequitable should Mr. Chaisson return to performing licensed activities after his incarceration without completing his responsibilities related to his hearing request. The staff thus requests that the Board uphold the staff’s enforcement order until Mr. Chaisson can engage with the Board and staff to resume his responsibilities with respect to the hearing. See id. at 2–3.

Before entering any additional directives regarding the parties’ pending joint motion, the effect of Mr. Chaisson’s failure to respond to the Board’s previous attempts to schedule a telephone conference to discuss that motion, or the effectiveness of the staff’s July 2014 enforcement order, the Board requests that the staff obtain, and provide a report on, some additional information regarding Mr. Chaisson’s current status. Specifically, the Board believes

that the names and contact information for the prosecution and/or defense attorneys handling Mr. Chaisson's criminal matter or court personnel associated with the case are available on the public record. As a consequence, the Board requests that the staff contact one or both of those counsel and/or any appropriate court personnel and obtain the following information: (1) confirmation that Mr. Chaisson has been incarcerated;¹ (2) the length of his sentence and his estimated date of release; and (3) how the staff and the Board might be able to contact Mr. Chaisson during any period of incarceration (e.g., a mailing address) besides sending information to his home address in Orem, Utah.

The Board requests that on or before Tuesday, May 26, 2015, the staff furnish the Board with an additional report that provides any pertinent information relative to the items listed

¹ Given this issuance is being sent to Mr. Chaisson by e-mail and by overnight delivery to his home address, see infra note 2, if the information regarding his apparent incarceration is not correct, he should contact the staff immediately to discuss his current status and the information that should be provided to the Board in the next staff status report.

above, as well as any other staff observations based on that information regarding Mr. Chaisson's current status and how his status impacts the pending joint motion and the associated settlement agreement.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD²

/RA/

G. Paul Bollwerk, III, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland

May 19, 2015

² In addition to being served by e-mail, a copy of this memorandum and order is being sent today to Mr. Chaisson by overnight express service at his home address in Orem, Utah.

Also, because the service certification attached to the staff's May 18 report does not reflect e-mail service upon Mr. Chaisson, a copy of that report is being included with the copy of this issuance being sent by overnight express service to Mr. Chaisson's home address. Per the Board's March 19 directive, see Licensing Board Memorandum and Order (Allowing E-Mail Filing and Service by James Chaisson) (Mar. 19, 2015) at 2-5 (unpublished), service of pleadings and issuances upon Mr. Chaisson by e-mail is a continuing duty absent some additional instructions from the Board and should be reflected in the certificate of service.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
Mr. James Chaisson) IA-14-025-EA
)
(Enforcement Action))

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **MEMORANDUM AND ORDER (Requesting Additional Information Regarding Mr. Chaisson's Status)** have been served upon the following persons by Electronic Information Exchange or via Electronic Mail where indicated by an asterisk.

U.S. Nuclear Regulatory Commission.
Atomic Safety and Licensing Board Panel
Mail Stop: T-3F23
Washington, DC 20555-0001

G. Paul Bollwerk, III, Chair
Administrative Judge
E-mail: paul.bollwerk@nrc.gov

Dr. Gary S. Arnold
Administrative Judge
E-mail: gary.arnold@nrc.gov

Michael M. Gibson
Administrative Judge
E-mail: michael.gibson@nrc.gov

Paul S. Ryerson
Settlement Judge
E-mail: paul.ryerson@nrc.gov

Matthew Zogby, Law Clerk
E-mail: matthew.zogby@nrc.gov

Alana Wase, Law Clerk
E-mail: alana.wase@nrc.gov

U.S. Nuclear Regulatory Commission
Office of Commission Appellate Adjudication
Mail Stop: O-16C1
Washington, DC 20555-0001
E-mail: ocaamail@nrc.gov

U.S. Nuclear Regulatory Commission
Office of the General Counsel
Mail Stop: O-15D21
Washington, DC 20555-0001
Catherine Scott, Esq.
Mauri Lemoncelli, Esq.
Christopher Hair, Esq.
Michael Clark, Esq.
James Maltese, Esq.
Sabrina Allen, Paralegal
E-mail: catherine.scott@nrc.gov
mauri.lemoncelli@nrc.gov
christopher.hair@nrc.gov
michael.clark@nrc.gov
james.maltese@nrc.gov
sabrina.allen@nrc.gov

U.S. Nuclear Regulatory Commission
Office of the Secretary of the Commission
Mail Stop: O-16C1
Washington, DC 20555-0001
E-mail: hearingdocket@nrc.gov

James Chaisson*
E-mail: xrayjames01@yahoo.com

[Original signed by Herald M. Speiser _____]
Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 19th day of May, 2015