

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

'97 NOV 21 A9:01

In the Matter of:)
)
QUIVIRA MINING CO.)
Ambrosia Lake Facility)
Grants, New Mexico)
)
)
)

Docket No. 40-8905-MIA

OFFICE OF SECRETARY
RULEMAKING AND
ADJUDICATIONS STAFF

SERVED NOV 21 1997

ORDER

On November 4, 1997, the Atomic Safety and Licensing Board issued Memorandum and Order LBP-97-20, denying Envirocare of Utah, Inc.'s (Envirocare) request for hearing. This decision was "appealable within ten (10) days of service of the order." See 10 C.F.R. § 2.1205(o). Within the designated time for appeal, Envirocare filed a document labeled a "Petition for Review." This document in fact represents a "statement that succinctly sets out, with supporting argument, the errors alleged," as contemplated by section 2.1205(o), and we therefore construe it as an appeal.

Envirocare expressed confusion over the applicable procedures and indicates that it expects "an opportunity for full briefing." Envirocare states that "telephonic inquiries have not clarified the review procedure." Contrary to Envirocare's apparent understanding, our rules do not contemplate any briefs beyond the appeal itself.

In these circumstances, pursuant to my authority under 10 C.F.R. § 2.772(a), Envirocare may, if it chooses, either file a supplement to its November 14, 1997, appeal or may file a substitute appeal. The supplemental or substitute appeal must be filed no later than December 3, 1997. Service on the Commission and on the parties must be made in a manner to ensure receipt by the date due.

18639

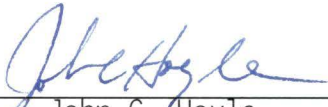
The NRC staff and Quivira Mining may file their responses no later than December 23, 1997. Service on the Commission and on the parties likewise must be made in a manner to ensure receipt by the date due.

Under the Commission's general practice, any appeal or response in excess of 10 pages must contain a table of contents, with page references, and a table of cases (alphabetically arranged), statutes, regulations, and other authorities cited, with references to the pages of the brief where they are cited.

It is so ORDERED.



For the Commission



John C. Hoyle
Secretary of the Commission

Dated at Rockville, Maryland
this 21st day of November, 1997.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of
QUIVERA MINING COMPANY
(License Amendment)

Docket No.(s) 40-8905-MLA

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing COMM ORDER RE PET. FOR REVIEW 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
Charles Bechhoefer
Presiding Officer
Atomic Safety and Licensing Board
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

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

Susan L. Uttal, Esq.
Office of the General Counsel
Mail Stop - O-15 B18
U.S. Nuclear Regulatory Commission
Washington, DC 20555

*Lynda L. Brothers, Esq.
Davis Wright Tremaine LLP
2600 Century Square
1501 Fourth Avenue
Seattle, WA 98101

Mark Stout, Esq.
Quivera Mining Company
6305 Waterford Boulevard, Suite 325
Oklahoma City, OK 73118

James R. Curtiss, Esq.
Winston & Strawn
1400 L Street, N.W.
Washington, DC 20005

Mark J. Wetterhahn, Esq.
Winston & Strawn
1400 L Street, N.W.
Washington, DC 20005

*Faxed

Docket No.(s)40-8905-MLA
COMM ORDER RE PET. FOR REVIEW

Dated at Rockville, Md. this
21 day of November 1997


Office of the Secretary of the Commission