

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

ATOMIC SAFETY AND LICENSING BOARD PANEL

97 MAR 11 P2:48

Before Presiding Officer:
G. Paul Bollwerk, III, Administrative Judge

Special Assistant:
Dr. Charles N. Kelber, Administrative Judge

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

In the Matter of
ATLAS CORPORATION
(Moab, Utah Facility)

Docket No. 40-3453-MLA
ASLBP No. 97-723-02-MLA
March 11, 1997

MEMORANDUM AND ORDER
(Permitting Additional Filing)

SERVED MAR 11 1997

The Presiding Officer has received the March 3, 1997 filing of pro se petitioner John Francis Darke in which he outlines his areas of concern regarding licensee Atlas Corporation's (Atlas) December 20, 1996 license amendment request and the circumstances that establish his January 30, 1997 hearing request is timely. Also, in describing his interest in this proceeding and how that interest would be affected by the results of this proceeding, at pages eight and nine of his pleading petitioner Darke states:

That interest (the health and safety of the requestor and his family, who reside in the vicinity of the Moab facility) would be challenged by the granting of the amendment proposed by the Application as offered by the Applicant/Licensee submittal of December 20, 1996.

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The undersigned and his family would suffer direct harm, radiological and other wise by such granting.

Petitioner Darke has not, however, provided any detail as to what he means by "in the vicinity" of the Moab facility or how he would suffer "direct harm" as a result of residing "in the vicinity" of the facility.

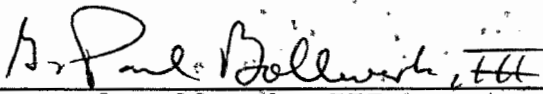
Under agency case law, to establish his interest (i.e., his standing) to be admitted as a party to this proceeding, petitioner Darke must make a showing that his proximity to the facility by reason of his residence, recreational activities, employment, local travel, etc., is such that the Moab facility and activities related to that facility that are relevant to the license amendment at issue will affect his interests, including his interest in his radiological health and safety. This is generally done by a showing that (1) states the distance (in miles) a petitioner resides from a facility, and/or (2) describes any regular activities that the petitioner engages in near the facility and the distance the petitioner is from the facility when participating in those activities. In addition, the petitioner is expected to attempt to show how, at those distances, the facility and any relevant activities at the facility will affect the petitioner's interests.

In light of his pro se status, I will afford Mr. Darke an additional opportunity to provide any further information he wishes me to consider in determining whether, in

accordance with 10 C.F.R. § 2.1205(h), he has established that his interest in this proceeding warrants his admission as a party. Petitioner Darke's additional submission regarding his interest in this proceeding shall be filed (i.e., mailed) on or before Monday, March 24, 1997.

Licensee Atlas shall have up to and including Monday, April 7, 1997, within which to respond to petitioner Darke's additional filing, as well as his filings of February 24, 1997, and March 3, 1997.

It is so ORDERED.*


G. Paul Bollwerk, III
ADMINISTRATIVE JUDGE

Rockville, Maryland

March 11, 1997

* Copies of this memorandum and order have been sent to counsel for Atlas today by facsimile transmission and have been served on petitioner Darke by priority mail.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of
ATLAS CORPORATION
(Request for License Amendment)

Docket No.(s) 40-3453-MLA

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB M&O PERMITTING FILING 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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Washington, DC 20555

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John F. Darke
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Dated at Rockville, Md. this
11 day of March 1997

Adria T. Byrdson
Office of the Secretary of the Commission