

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

DOCKETED  
USNRC

'99 JUN 14 P3:14

BEFORE THE PRESIDING OFFICER

In the Matter of )

Docket No. 40-3453-MLA-4 )

ATLAS CORPORATION )

Moab, Utah Facility )

ASLBP No. 99-763-05-MLA )

NUCLEAR REGULATORY COMMISSION STAFF'S  
ANSWERS TO THE QUESTIONS POSED BY THE  
PRESIDING OFFICER IN THE MAY 14, 1999, ORDER

INTRODUCTION

On December 22, 1998, Atlas Corporation submitted an amendment request to change the completion date for ground-water corrective actions from December 31, 1998 to July 31, 2006. Notice of receipt of the request and of opportunity for hearing were published in the *Federal Register* on January 19, 1999. 64 Fed. Reg. 2919. On February 18, 1999, a request for hearing was received from Sarah M. Fields. By Order of May 14, 1999, the Presiding Officer designated in the proceeding granted Ms. Fields' hearing request.

In addition, the Presiding Officer considered "Atlas Corporation's Request to Place Hearing in Abeyance" which had been filed on April 8, 1999. Determining that additional information was necessary to rule on the motion, the Presiding Officer directed the Nuclear Regulatory Commission Staff (Staff) to participate in the proceeding and to answer questions set forth in the Order. The Staff's answers are set forth below.

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ANSWERS TO THE PRESIDING OFFICER'S QUESTIONS

QUESTION 1

As provided by 10 C.F.R. § 21205(m), the granting of Ms. Fields' request for a hearing and petition for leave to intervene need not delay NRC staff action regarding a license amendment such as is sought here. Has the NRC Staff granted Atlas' proposed amendment or, if not, does it propose to do so prior to the conclusion of any delay of this proceeding pending outcome of the bankruptcy proceedings that I might grant? (If the Staff indicates that it plans to issue the amendment prior to the expiration of any delay I might grant, I would be inclined not to delay conclusion of this proceeding, irrespective of the Licensee's ability fully to participate.)

ANSWER

The Staff approved the amendment to revise the completion date for ground-water corrective actions from December 31, 1998, to July 31, 2006, on May 28, 1999. A copy of the letter approving the amendment, along with the Technical Evaluation Report and the amended license was provided to the Presiding Officer and to Ms. Fields on June 2, 1999.

QUESTION 2

Has the NRC Staff approved the revised ground-water corrective action plan (referenced by Ms. Fields) that is to constitute the starting point for the proposed seven-year extension? If not, what is the Staff's likely schedule for doing so?

ANSWER

The amendment approved by the Staff on May 28, 1999, requires the licensee to submit a revised groundwater corrective action plan (CAP) by May 1, 2000. Once the CAP is received, the Staff will begin to review the licensee's proposed corrective actions. Because the length of the Staff's review will depend on the quality of the licensee's submission, the amount of time the United States Fish and Wildlife Service (FWS) will require for consultation, and the possibility that the

Staff may issue a draft Environmental Impact Statement (EIS), the Staff cannot provide a precise statement of how long the review process will take at this time. Depending on the quality of the licensee's submission, the Staff expects that the safety evaluation will take approximately six months. The Staff's environmental review, which is performed concurrently with the safety evaluation, should be completed within approximately six to twelve months if an Environmental Assessment, which will supplement the current EIS, is issued with a finding of no significant impact. However, if the Commission determines an Environmental Impact Statement is necessary, or the Staff finds that the action would have a significant environmental impact, the Staff's review will necessarily be significantly longer to account for a more extensive environmental review and for a public comment period. The Staff's environmental review is also dependent on consultation with FWS, a process that is outside the Staff's control and which can potentially delay completion of the environmental review.

QUESTION 3

Given the circumstance that this proceeding was noticed subsequent to the initiation of bankruptcy proceedings, has any effort been made (since receipt of Ms. Field' [sic] timely hearing request) to include Ms. Fields in the above-referenced settlement negotiations concerning the bankruptcy proceedings?

ANSWER

No, Ms. Fields was not included in the settlement negotiations, although other interested parties were, such as Earthjustice and Grand Canyon Trust, which have sought relief before the agency and the courts with respect to the Moab site. While they participated in some of the discussions related to settlement of the bankruptcy proceedings, neither group was a party to the settlement because neither is a party to the bankruptcy proceeding.

QUESTION 4

What would be the effect on the above-referenced settlement if I were to grant Ms. Fields' request by default and deny the proposed license amendment? Would that course of action have any effect on the priorities that might be assigned by the bankruptcy court for the expenditure of available funds?

ANSWER

Denial of the license amendment would not have any effect on the Moab Uranium Millsite transfer agreement reached by Atlas Corporation, the Official Unsecured Creditors Committee, the Nuclear Regulatory Commission, the State of Utah, and ACSTAR Insurance Companies. The allocation of assets under that agreement is not dependent on specific milestones concerning reclamation or ground-water remediation, such as the date by which ground-water corrective actions must be completed.

QUESTION 5

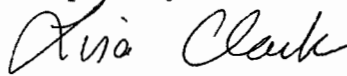
What is the relationship (if any) between this proceeding and that currently pending before Administrative Judge Thomas Moore (Docket No. 40-3453-MLA-3)?

ANSWER

The proceeding before Administrative Judge Thomas Moore concerns a hearing request that was filed by Grand Canyon Trust, *et al.*, regarding an amendment request submitted by Atlas Corporation in August of 1988 to revise its site reclamation plan. The proposed reclamation of the site, which was approved by the Staff on May 28, 1999, provides for impoundment of the tailings and stabilization of the site. In reviewing the revised reclamation plan, the Staff considered the effects on groundwater only after the reclaimed site was stabilized. Cleanup of the current contamination of the ground-water, referred to as "ground-water remediation" was not part of the


Staff's review. Groundwater remediation is considered by the Staff separately, when reviewing the corrective actions proposed in the CAP submitted by the licensee. Under license condition 41B, which was included in the amendment approved by the Staff on May 28, 1999, the licensee must submit a revised CAP by May 1, 2000. This is the only aspect of the amendment which relates to ground-water remediation. To the extent that the date on which the CAP is submitted will affect the date by the which corrective actions are completed, the two proceedings are interrelated.

Respectfully submitted,



*Lisa B. Clark*

Lisa B. Clark  
Counsel for NRC Staff



Dated at Rockville, Maryland  
this 14<sup>th</sup> day of June, 1999



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BEFORE THE PRESIDING OFFICER

OFFICE OF THE  
RULING OFFICER  
ADJUDICATING OFFICER

In the Matter of	)	
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ATLAS CORPORATION	)	Docket No. 40-3453-MLA-4
Moab, Utah Facility	)	
	)	ASLB No. 99-763-05-MLA
	)	

CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF'S ANSWERS TO THE QUESTIONS POSED BY THE PRESIDING OFFICER IN THE MAY 14, 1999, ORDER" in the above-captioned proceeding have been served on the following by deposit into the United States mail, or through deposit in the Nuclear Regulatory Commission's internal mail system this 14<sup>th</sup> day of June 1999.

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