

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555



OFFICE OF THE
SECRETARY

OCT 3 1989



MEMORANDUM FOR: B. Paul Cotter, Jr.
Chief Administrative Judge
Atomic Safety and Licensing Board Panel

FROM: Samuel J. Chilk, Secretary

SUBJECT: REQUEST FOR HEARING BY USR INDUSTRIES,
INC., AND FOUR OTHER "USR" COMPANIES

Attached is an answer and request for a hearing filed on behalf of USR Industries, Inc., USR Lighting, Inc., USR Chemicals, Inc., USR Metals, Inc. and USR Natural Resources, Inc. The hearing request is filed in response to an August 21, 1989 "Order Modifying License and Demand for Information," published in the Federal Register at 54 FR 36078 (August 31, 1989).

The hearing request is being referred to you for appropriate action in accordance with 10 C.F.R. 2.772(j).

Also attached is a request from the Safety Light Company to the staff for an extension of time to file an answer to the Order Modifying License. The staff by letter dated September 11, 1989 extended the time for Safety Light to file to October 2, 1989.

The Office of General Counsel has asked that you note that a Licensing Board is presently conducting a hearing involving a different order issued to the same parties. Please bear this in mind in assigning a suffix designation to this proceeding. For example, the proceeding suffix could be OM-2.

Attachments: As stated

cc: Commission Legal Assistants
OGC
EDO
ASLAP
NMSS
A. Patrick Nucciarone, Esquire
Counsel for the USR Industries, Inc.
et. al.

8910250120 891003
NMSS LIC30 PDR
37-00030-02

D502

HANNOCH WEISMAN

A PROFESSIONAL CORPORATION

COUNSELLORS AT LAW

(MERGED WITH STERNS, HERBERT, WEINROTH & PETRINO)

A PROFESSIONAL CORPORATION

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PLEASE REPLY TO:

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OF COUNSEL

RICHARD J. HUGHES

JOSEPH A. WEISMAN

WRITER'S DIRECT LINE:

FILE #

37098-28

September 8, 1989

VIA FEDERAL EXPRESS

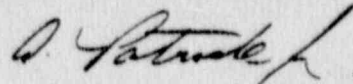
Director, Office of Enforcement
U.S. Nuclear Regulatory Commission
Attn: Document Control Desk
Washington, DC 20555

Re: Docket Nos. 030-05980, 030-05981,
030-05982, 030-08335 and 030-08444

Dear Sir:

I enclose the Answer and Request for Hearing filed on behalf of USR Industries, Inc., USR Lighting, Inc., USR Chemicals, Inc., USR Metals, Inc. and USR Natural Resources, Inc. in the above matter.

Very truly yours,



A. PATRICK NUCCIARONE

APN/lp

Enclosure

cc: Assistant Attorney General
for Hearings & Enforcement
Office of General Counsel

Regional Administrator
NRC Region I

Jay Gutierrez, Esq.
Bernard M. Bordenick, Esq.
Robert M. Weisman, Esq.

0909200/31 - 4p

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of, : DOCKET NOS. 030-05980,
SAFETY LIGHT CORPORATION, : 030-05981, 030-05982,
et al. : 030-08335 and 030-08444
:
:
: **ANSWER AND REQUEST**
: **FOR HEARING**

TO: Director, Office of Enforcement
U.S. Nuclear Regulatory Commission
Attn: Document Control Desk
Washington, DC 20555

This Answer is filed in response to the August 21, 1989 Order Modifying Licenses ("Order") on behalf of USR Industries, Inc., USR Lighting, Inc., USR Chemicals, Inc., USR Metals, Inc. and US Natural Resources, Inc. ("These Respondents").

Paragraph I

1. These Respondents are without knowledge or information sufficient to form a belief as to the veracity of the allegations set forth in Paragraph I of the Order.

Paragraph II

2. These Respondents deny that there is any unrestricted access to the Bloomsburg facility.

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3. These Respondents deny that there is any potential threat to the health and safety of anyone at the Bloomsburg facility.

4. These Respondents deny the implication in Paragraph II of the Order that there is evidence of offsite tritium at levels above those established as safe by the United States Environmental Protection Agency, and deny the further implication that tritium concentrations are increasing over time. These NRC allegations are contradicted by a decade of data generated by test borings placed at the NRC's direction and made fully available to the NRC.

5. These Respondents are without knowledge or information sufficient to form a belief as to the veracity of all other allegations set forth in Paragraph II of the Order.

Paragraph III

6. These Respondents admit that the NRC issued an Order Modifying Licenses and Demand for Information on March 16, 1989, which Order required the preparation of plans for site characterization and decontamination and sought specification of the amount of funds that each Respondent would provide for implementation. An Answer and Request for Hearing was filed in response to that Order, and a site assessment plan prepared by the leading independent engineering firm of IT Corporation, Oak

Ridge, Tennessee, was submitted to the NRC on June 2, 1989. The NRC set forth in a letter dated June 16, 1989 NRC's view that the plan was insufficient. These Respondents and representatives of IT Corporation met with the NRC at Region I offices on July 6, 1989, and NRC was advised as to the many steps taken by Safety Light Corporation under its health and safety programs to date. The NRC was also advised concerning the site assessment plan designed to identify whether there were any areas of the Bloomsburg facility that might contain elevated levels of contamination and, if so, to give priority to remediation of those areas.

7. Implementation of that plan would cost approximately \$116,000 and These Respondents represented at that meeting that they would undertake to fund an adequate share of that plan as soon as NRC approved its implementation. NRC refused to consider the merits of a plan which was designed to concentrate on priority areas and instead insisted on development of a full site characterization plan even if that meant that no financial resources would be available to complete or implement the NRC plan. These Respondents then voluntarily undertook for representatives of IT Corporation to meet with NRC staff, which took the position that NRC preferred to spend all available financial resources to study the entire Bloomsburg facility in lieu of using those resources to locate and remedy priority areas of potential contamination. IT Corporation then prepared a comprehensive site characterization plan to NRC specifications which

was submitted to the NRC on August 10, 1989. These Respondents admit that they certified to the NRC their commitment to fund fifty percent of the \$115,000 plan which was submitted to the NRC on June 2, 1989.

8. These Respondents deny that the plan submitted on June 2, 1989 was in violation of the Order issued on March 16, 1989 and deny that they were able to commit to fund a plan until they knew how much it would cost.

9. These Respondents are without knowledge or information sufficient to form a belief as to the veracity of all other allegations set forth in Paragraph III of the Order.

Paragraph IV

10. These Respondents deny that additional actions are immediately needed to protect public health and safety and that the public health, safety and interest require issuance and immediate effectiveness of the August 21, 1989 Order.

Paragraph V

11. No response to Paragraph V is necessary at this time other than to deny that the NRC has the authority or jurisdiction to order the relief set forth.

Paragraph VI

12. No response to Paragraph VI is necessary at this time other than to deny that the Order may become immediately effective inasmuch as These Respondents have requested a hearing for the purpose of challenging the validity of the Order.

WHEREFORE, These Respondents request:

- A. Rescission of the August 21, 1989 Order as against them for lack of jurisdiction or, in the alternative
- B. An administrative hearing and
- C. A stay of the enforceability of the Order Modifying Licenses pending disposition of the above hearing.

HANNOCH WEISMAN
A Professional Corporation
Attorneys for USR Industries,
Inc., USR Lighting, Inc., USR
Chemicals, Inc., USR Metals,
Inc. and US Natural Resources,
Inc.

By 

A. PATRICK NUCCIARONE

DATED: September 8, 1989

cc: Assistant Attorney General
for Hearings & Enforcement
Office of General Counsel

Regional Administrator
NRC Region I



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

AUG 21 1989

Docket Nos. 030-05980, 030-05981
030-05982, 030-08336, and
030-08444

License Nos. 37-00030-02, 37-00030-07E,
37-00030-08, 37-00030-09G, and
37-00030-10G

EA 89-29

Safety Light Corporation
Lime Ridge Industries, Inc.
Metreal, Inc.
ATTN: Jack Miller, President
4150-A Old Berwick Road
Bloomsburg, Pennsylvania 17815

Gentlemen:

Subject: ORDER MODIFYING LICENSES (EFFECTIVE IMMEDIATELY)

Enclosed is an Order Modifying Licenses (Effective Immediately) requiring you to establish funding for implementation of a site characterization plan of the Bloomsburg facility and for taking necessary immediate remedial actions for any significant health and safety problems that might be identified during site characterization. This Order has been issued to assure that funds are promptly set aside for these purposes. The NRC believes it necessary to issue this Order in light of the limited financial resources available to Safety Light Corporation, U.S. Radium Corporation, USR Industries, Inc., and their successor corporations and subsidiaries to ensure that the Corporations characterize the type and extent of radioactive contamination of the Bloomsburg site and take necessary remedial actions. This Order is one part of the NRC actions deemed necessary to ensure a timely and orderly decontamination of the site. Willful failure to comply with the terms of the Order may result in further civil action or referral to the Department of Justice for possible criminal prosecution.

In accordance with Section 2.790 of the NRC's Rules of Practice, Part 2, Title 10, Code of Federal Regulations, a copy of this letter and the enclosed Order will be placed in the NRC's Public Document Room.

CERTIFIED MAIL
RETURN RECEIPT REQUESTED


8908230324 2pp.

Safety Light Corp., et al.

- 2 -

The responses directed by the accompanying Order are not subject to the clearance procedures of the Office of Management and Budget, as required by the Paperwork Reduction Act of 1980, PL 96-511.

Sincerely,



Hugh L. Thompson, Sr.
Deputy Executive Director for
Nuclear Materials Safety, Safeguards
and Operations Support

Enclosure: Order Modifying Licenses (Effective Immediately)

cc: Geoffrey L. Beauchamp, Esq.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of:

Safety Light Corporation
United States Radium Corporation
USR Industries, Inc.
USR Lighting, Inc.
USR Chemical, Inc.
USR Metals, Inc.
USR Natural Resources, Inc.
Lime Ridge Industries, Inc.
Metreal, Inc.;
and all other successor
corporations to either USR
Industries or U. S. Radium Corp.
(herein referred to as the
Corporations)

Docket Nos.: 030-05980
030-05982
030-05981
030-08335
030-08444
License Nos.: 37-00030-02
37-00030-08
37-00030-07E
37-00030-09G
37-00030-10G

EA 89-29

ORDER MODIFYING LICENSES (EFFECTIVE IMMEDIATELY)

I

Safety Light Corporation (Safety Light) is the named licensee on Byproduct Material License Nos. 37-00030-02, 37-00030-08, 37-00030-07E, 37-00030-09G, and 37-00030-10G, issued by the Nuclear Regulatory Commission (NRC).

License No. 37-00030-02 authorizes the possession, storage, and use of any byproduct material for purposes of decontamination, cleanup, and disposal of equipment and facilities previously used for manufacturing, research and development in operations performed at the facility located at 4150-A Old Berwick Rd., Bloomsburg, PA (the Bloomsburg facility). License No. 37-00030-02 was originally issued on June 20, 1956 and was last renewed on January 25, 1979. This license has been under timely renewal since February 29, 1984.

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License No. 37-00030-08 authorizes the licensee to conduct research and development and to manufacture various devices containing tritium. License No. 37-00030-08 was originally issued on August 5, 1969, and was last renewed on January 6, 1983. This license has been under timely renewal since December 31, 1987. The above licenses permit use of material only at facilities at 4150-A Old Berwick Road, Bloomsburg, Pennsylvania.

License No. 37-00030-07E authorizes the distribution of timepieces, hands and dials to which luminous paint containing tritium has been applied, to persons exempt from NRC licensing pursuant to 10 C.F.R. § 30.15. License No. 37-00030-07E was originally issued on April 16, 1965 and was last renewed on May 27, 1986. This license expires on April 30, 1991.

License No. 37-00030-09G authorizes the distribution of luminous devices containing tritium to persons generally licensed pursuant to 10 C.F.R. § 31.5. License No. 37-00030-09G was originally issued on January 13, 1966 and was last renewed on October 24, 1983. This license has been under timely renewal since October 31, 1988.

License No. 37-00030-10G authorizes the distribution of sealed self-luminous sources to persons generally licensed pursuant to 10 C.F.R. § 31.7. License No. 37-00030-10G was originally issued on December 13, 1971 and was last renewed on April 22, 1985. This license expires on April 30, 1990.

II

The buildings, soil and groundwater at the Bloomsburg facility, collectively hereafter referred to as the Bloomsburg facility or facility, have become radioactively contaminated as a result of past operations at the facility. The known principal radionuclides contaminating the facility are tritium, strontium-90 (Sr-90), cesium-137 and radium-226. The levels of radioactivity exceed those that would permit unrestricted access to the facility. Tritium has also been detected in groundwater off-site in the well of a nearby house. Although the tritium in that well is not yet above drinking water limits set by the U.S. Environmental Protection Agency, further off-site contamination is likely to occur over time due to the movement of groundwater and soil erosion. Pits at the facility contain unknown types and quantities of radioactive material that pose a potential threat to the health and safety of employees and others at the facility.

III

To ensure that the Corporations would characterize the type and extent of radioactive contamination at the Bloomsburg facility, and plan and implement an orderly and timely decontamination of the facility, an Order Modifying Licenses (Effective Immediately) and Demand for Information was issued by the NRC on March 16, 1989 to the Corporations. This Order required the preparation of plans for site characterization and decontamination and specified, as part of the required site characterization plan, that "the plan shall specify the amount of funds that each of the Corporations is to provide for implementation of the plan" (Section VII.B of the Order).

In two letters dated April 17, 1989, the Corporations filed answers to the March 16, 1989 Order. On June 2, 1989, after receiving an extension of time to comply with the requirement of the Order to submit a characterization plan for the site, the Corporations submitted a Joint Characterization Plan (JCP) prepared by IT Corporation for providing a radiological assessment of the Bloomsburg facility. The NRC reviewed the plan and found that it did not satisfy the terms of the Order in a number of significant respects, which were described in a letter from the NRC to the Corporations dated June 16, 1989. The NRC informed the Corporations that they were in apparent violation of the Order, and described the actions that might follow as a result of this failure to comply with the terms of the Order. Among the many apparent violations of the Order, the NRC noted in its June 16, 1989 letter that the Corporations had failed to specify funding as required by Section VII.B of the Order.

The other apparent violations of the Order included: (1) the failure to describe a complete radiological and geohydrological survey of all facilities and of the surrounding surface and subsurface soil and groundwater to determine radionuclide concentrations and their lateral and depth profiles, as well as their movement in the groundwater; (2) the failure to provide for the characterization of the source of tritium contamination and for the radioactive source term, and for assessment of contaminant transport in the groundwater; (3) the failure to address the assessment of the extent to which lagoons and drainage canals are actively releasing contaminants to the environment; (4) the failure to address the characteristics of the sources of radiological contamination which may exist off-site, in general, or on the adjacent property, in particular; (5) the failure to address the assessment of the extent and rate of the off-site transport of contaminated groundwater; and (6) the failure to describe the actions that will

be taken to determine whether Sr-90 and other radioactive nuclides besides tritium have also been transported off-site in groundwater.

Subsequently, the NRC held an Enforcement Conference with the Corporations on July 6, 1989. At that conference, the NRC informed the Corporations that the JCP failed to comply with the requirements of the March 16, 1989 Order. With respect to the financial aspects of the JCP, the Corporations made it clear that the JCP submitted on June 2, 1989, was intended to determine if there are any immediate health effects and reflected the Corporations' limited financial capability. The Corporations indicated that implementation of the June 2, 1989 JCP was estimated to cost \$116,000 and that implementation of the characterization plan required by the Order would cost about \$1,000,000. The Corporations reiterated their limited financial condition in a letter to the NRC dated July 14, 1989 and stated that approximately \$115,000 was the total amount of funds available for site characterization. The NRC has independently estimated the cost of implementation of the site characterization plan which meets the requirements of the March 16, 1989 Order and has determined that \$1,000,000 (plus or minus 30%) is a reasonable estimate. Based upon information provided to the NRC by the Corporations, it appears that the net income of Safety Light Corporation is approximately \$200,000 per year and USR Industries is presently running a deficit. Assets of USR Industries appear to be approximately \$5,000,000, some of which may be encumbered. The President of USR Industries indicated a willingness to sell an interest in a building in Houston, Texas, to raise funds to accomplish the JCP proposed by the Corporations.

By letter dated August 10, 1989, the Corporations submitted a site characterization plan prepared by IT Corporation. The August 10th plan was stated to meet the

intent of NRC's Order of March 16, 1989. While this plan described certain planning, implementation, reporting, scheduling, and quality assurance activities, the plan failed to provide any indications related to the funding to implement the plan, as required by the March 16, 1989 Order and as indicated previously in the NRC's letter dated June 16, 1989. By letter dated August 17, 1989, Safety Light Corporation certified that it committed to jointly fund the plan with USR Industries, et. al. up to a total of \$115,000, of which Safety Light will fund fifty percent, with the balance required for implementation of the plan being sought from their insurance carriers. By certification dated August 18, 1989, USR Industries, Inc. and its wholly owned subsidiaries certified that they intend to fund the plan up to 50 percent of projected total cost of \$115,000 and to the extent practicable seek the balance of funds from their respective insurance carriers. These certifications are inadequate to provide assurance that the required site characterization plan, which is estimated to cost approximately \$1,000,000 will be funded. The continued failure to assure adequate funding to complete implementation of a site characterization plan which satisfies the March 16th Order is a significant concern to the NRC. The NRC's assessment of the technical adequacy of the plan will be described in future correspondence.

IV

The Corporations' failure to provide assurance of adequate funding to complete implementation of a satisfactory site characterization plan, the uncertainty regarding the nature and extent of contamination at the Bloomsburg facility, and the statements made by the Corporations' principal officers as to the limited financial resources available for site characterization, let alone decontamination, demonstrate that additional actions are immediately needed to

protect public health and safety by assuring that sufficient resources are made available by the Corporations to initiate and complete the site characterization and take necessary immediate remedial action for any significant health and safety problems. Based on the above, I have determined, pursuant to 10 C.F.R. § 2.204, that the public health, safety, and interest require that this Order be made immediately effective.

V

In view of the foregoing, and pursuant to Sections 81, 161b, 161c, 161f, 161g, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 C.F.R. § 2.204 and 10 C.F.R. Parts 30 and 32, IT IS HEREBY ORDERED, EFFECTIVE IMMEDIATELY, THAT LICENSE NOS. 37-00030-02, -08, -07E, -09G, and -10G ARE MODIFIED AS FOLLOWS:

- A. The Corporations shall establish a trust pursuant to a trust agreement as specified below and, within 30 days of the date of this Order, shall submit an originally signed duplicate of the trust agreement to the Regional Administrator, NRC Region I (hereafter referred to as Regional Administrator);
- B. The trustee must be an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a Federal or State agency;
- C. The Corporations:
 1. Shall make payments into the trust fund on or before the dates specified in the following schedule:

<u>Date:</u>	<u>Deposit Required</u>
October 2, 1989	\$ 50,000
November 1, 1989	50,000
December 1, 1989	50,000
January 2, 1990	50,000
February 1, 1990	50,000
March 1, 1990	100,000
April 2, 1990	100,000
May 1, 1990	100,000
June 1, 1990	100,000
July 2, 1990	100,000
August 1, 1990	100,000
September 4, 1990	100,000
	<u>100,000</u>
	\$1,000,000

The Corporations shall be jointly and severally responsible for satisfying this payment schedule;

2. Shall, within 7 days of a payment scheduled under Section V.C.1 above, certify to the Regional Administrator, under oath or affirmation, that the payment has been made as required;
3. May accelerate payments into the trust fund or may deposit the full amount specified above at the time the fund is established. However, they must maintain the value of the fund at no less than the value that the fund would have if the payments were made as specified above;
4. Will be deemed to be without the required financial assurance or liability coverage in the event of bankruptcy of the trustee, or a suspension or revocation of the authority of the trustee institution to act as trustee, and must establish a new trust that meets the requirements given below within 60 days after such an event.

D. The trust agreement shall provide that:

1. The Corporations shall be the Grantors of the trust;
2. The Grantors shall establish the trust to provide assurance that funds will be available to implement an NRC-approved plan to characterize the type and extent of the radioactive contamination at the Bloomsburg facility and to take immediate remedial action at any time such action is necessary;
3. The Grantors shall designate an identified individual, who is a responsible corporate officer, as the Grantors' authorized representative, and two alternates;
4. The Grantors or the Grantors' authorized representative shall, with written approval from the Regional Administrator, select a contractor to implement the site characterization plan, which contractor will be the beneficiary of the trust, and which may be replaced by the Grantors on reasonable notice, with written approval from the Regional Administrator;
5. The Grantors or the Grantors' authorized representative shall have the option of selecting one or more additional contractors to plan or implement remedial action at the facility, or both, with written approval from the Regional Administrator, which contractors would be additional beneficiaries of the trust, and which may be replaced by the Grantors on reasonable notice, with written approval from the Regional Administrator;

6. The Trustee shall make disbursements from the trust fund to the beneficiary or beneficiaries as the Grantors or the Grantors' authorized representative shall direct in writing, with written approval of the Regional Administrator for disbursements exceeding \$5,000, or as the Regional Administrator shall direct in writing;
7. The Grantors' payments of principal into the trust fund shall consist of cash, but may also consist of short-term obligations of the United States government or other property as the Regional Administrator shall approve in writing;
8. The Trustee shall invest and reinvest the principal and income of the trust fund, including interest earned, and keep the trust fund invested, without distinction between principal and income, in accordance with the following provisions: the Trustee shall hold the trust fund in demand deposits that earn interest and are insured by an agency of the United States government or in short-term obligations of the United States government, provided, however, that the Trustee may hold cash awaiting investment or distribution for a reasonable time (approximately five working days) without liability for the payment of interest;
9. The Trustee shall: (1) within seven days after the end of each month beginning with October 1989, provide to the Regional Administrator a summary of the disbursements made during the past month to include: the date of disbursement, amount of disbursement, party receiving disbursement, and purpose of or activity accomplished by disbursement; and (2) within seven days after the end of each quarter beginning

- October 2, 1989, furnish to the Regional Administrator a summary accounting statement of the trust fund for the past quarter, to include: amounts paid into the trust fund, disbursements from the trust fund, interest earned, and the current value of the trust fund;
10. The Trustee may resign, or the Grantors may replace the Trustee, but such resignation or replacement shall not be effective until (1) the Grantors notify the Regional Administrator in writing that the Grantors have appointed a successor trustee and that the successor trustee has accepted the appointment; (2) the Regional Administrator approves the appointment; and (3) the successor trustee assumes administration of the trust;
 11. The Trustee shall implement orders, requests, and instructions only if they are in writing and signed by either the Grantors or the Grantors' authorized representative, with a copy to the Regional Administrator, or if they are in writing and signed by the Regional Administrator;
 12. The Trustee shall notify the Grantors and the Regional Administrator, by certified mail, within seven days following the expiration of the seven day period after each month following the establishment of the Trust, if no payment is received from the Grantors during that period;
 13. The trust agreement may be amended by an instrument in writing executed by the Grantors and the Trustee, with the written approval of the Regional Administrator, or by the Trustee and the Regional Administrator if the Grantors cease to exist;

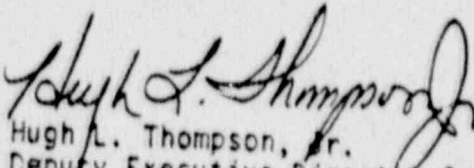
14. The Trust shall be irrevocable and shall continue until terminated at the written agreement of the Grantors, the Trustee and the Regional Administrator, or by the Trustee and the Regional Administrator if the Grantors cease to exist;
 15. Wherever the trust agreement refers to the Regional Administrator, it shall also be deemed to refer to the Regional Administrator's designee or the NRC Deputy Executive Director for Nuclear Materials Safety, Safeguards, and Operations Support or his designee.
- E. Should the Corporations' total payments into the trust fund (\$1,000,000) be insufficient to fund implementation of the site characterization plan or to take necessary immediate remedial action and the trust fund be exhausted, the Regional Administrator may, at his discretion, and in writing, require the Grantors to make additional payments totalling no more than \$300,000 into the trust fund.

The Regional Administrator or the Deputy Executive Director for Nuclear Materials Safety, Safeguards, and Operations Support, may, in writing, relax, rescind, or modify any provision of this Order upon the showing by the Corporations, in writing, of good cause. This authority includes, but is not limited to, the authority to extend deadlines and to permit the establishment of separate trust funds with good cause shown, so long as the Corporations otherwise satisfy the requirements of this Order.

VI

The Corporations or any person adversely affected by this Order may request a hearing within 20 days of the date of its issuance. Any answer to this Order or request for a hearing shall be addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, D.C. 20555, with a copy to the Assistant General Counsel for Hearings and Enforcement, Office of the General Counsel, at the same address, and to the Regional Administrator, NRC Region I, 475 Allendale Road, King of Prussia, Pennsylvania 19406. If a hearing is requested by the Corporations, the Commission will issue an Order designating the time and place of hearing. If a hearing is held, the issue to be considered at the hearing shall be whether this Order should be sustained. If a person other than the Corporations requests a hearing, that person shall set forth with particularity the manner in which the petitioner's interest is adversely affected by this Order and should address the criteria set forth in 10 C.F.R. § 2.714(d). AN ANSWER TO THIS ORDER OR REQUEST FOR HEARING SHALL NOT STAY THE IMMEDIATE EFFECTIVENESS OF THIS ORDER. Upon the failure of the Corporations herein named to answer or request a hearing within the time specified, this Order shall be final without further proceedings.

FOR THE NUCLEAR REGULATORY COMMISSION


Hugh L. Thompson, Jr.
Deputy Executive Director for
Nuclear Materials Safety, Safeguards,
and Operations Support

Dated at Rockville, Maryland
this 2/5th day of August 1989

AUG 21 1989

Safety Light Corporation

Distribution

PDR

SECY

CA

H. Thompson, DEDS

J. Taylor, DEDR

W. Russell, RI

J. Lieberman, OE

R. Bernero, NMSS

J. Goldberg, OGC

L. Chandler, OGC

R. Cunningham, NMSS

Enforcement Coordinators

RI, RII, RIII, RIV, RV

F. Ingram, PA

B. Hayes, OI

M. Malsch, OIC

E. Jordan, AEOD

V. Miller, GPA/SP

DCS

EA File

Commonwealth of Pennsylvania

M. Peterson, GPA/IP

W. Belanger, EPA

HJL
OE:D
JLieberman
8/18/89

*Pgs 7A & 11
w/ J. Taylor
HJL*
RI
WRussell
8/18/89

*P. D. ...
w/ J. Goldberg*
OGC
JGoldberg
8/18/89

*Don Adams
070 8/18/89
HJL*
NMSS
RBernero
8/18/89

HJL
DEDS
HThompson
8/21/89

[Docket No. 030-05980 et al., License No. 37-00030-02 et al.; EA 89-29]

Safety Light Corp. et al.; Order Modifying Licenses (Effective Immediately)

In the matter of: Safety Light Corp., United States Radium Corp., USR Industries, Inc., USR Lighting, Inc., USR Chemical, Inc., USR Metals, Inc., USR Natural Resources, Inc., Lime Ridge Industries, Inc., Metreal, Inc. and all other successor corporations to either USR Industries or U.S. Radium Corp. (herein referred to as the Corporations)

[Docket Nos.: 030-05980, 030-05982, 030-5981, 030-08335, 030-08444, License Nos.: 37-00030-02, 37-00030-06, 37-00030-07E, 37-00030-09G, 37-00030-10G]

I
Safety Light Corporation (Safety Light) is the named licensee on Byproduct Material License Nos. 37-00030-02, 37-00030-06, 37-00030-07E, 37-00030-09G, and 37-00030-10G, issued by the Nuclear Regulatory Commission (NRC).

License No. 37-00030-02 authorizes the possession, storage, and use of any byproduct material for purposes of decontamination, cleanup, and disposal of equipment and facilities previously used for manufacturing, research and development in operations performed at the facility located at 4150-A Old Berwick Rd., Bloomsburg, PA (the Bloomsburg facility). License No. 37-00030-02 was originally issued on June 20, 1966 and was renewed on January 25, 1979. This license has been under timely renewal since February 29, 1984.

License No. 37-00030-08 authorizes the licensee to conduct research and development and to manufacture various devices containing tritium. License No. 37-00030-08 was originally issued on August 5, 1968, and was last renewed on January 6, 1983. This license has been under timely renewal since December 31, 1987. The above licenses permit use of material only at facilities at 4150-A Old Berwick Road, Bloomsburg, Pennsylvania.

License No. 37-00030-07E authorizes the distribution of timepieces, hands and dials to which luminous paint containing tritium has been applied, to persons exempt from NRC licensing pursuant to 10 CFR 30.15. License No. 37-00030-07E was originally issued on April 16, 1965 and was last renewed on May 27, 1986. This license expires on April 30, 1991.

License No. 37-00030-09G authorizes the distribution of luminous devices containing tritium to persons generally licensed pursuant to 10 CFR 31.5. License No. 37-00030-09G was originally issued on January 13, 1966 and was last renewed on October 24, 1983. This

license has been under timely renewal since October 31, 1988.

License No. 37-00030-10G authorizes the distribution of sealed self-luminous sources to persons generally licensed pursuant to 10 CFR 31.7. License No. 37-00030-10G was originally issued on December 13, 1961 and was last renewed on April 22, 1985. This license expires on April 30, 1990.

II

The buildings, soil and groundwater at the Bloomsburg facility, collectively hereafter referred to as the Bloomsburg facility or facility, have become radioactively contaminated as a result of past operations at the facility. The known principal radionuclides contaminating the facility are tritium, strontium-90 (Sr-90), cesium-137 and radium-226. The levels of radioactivity exceed those that would permit unrestricted access to the facility. Tritium has also been detected off-site in the well of a nearby house. Although the tritium in that well is not yet above drinking water limits set by the U.S. Environmental Protective Agency, further off-site contamination is likely to occur over time due to the movement of groundwater and soil erosion. Pits at the facility contain unknown types and quantities of radioactive material that pose a potential threat to the health and safety of employees and others at the facility.

III

To ensure that the Corporations would characterize the type and extent of radioactive contamination at the Bloomsburg facility, and plan and implement an orderly and timely decontamination of the facility, an Order Modifying Licenses (Effective Immediately) and Demand for Information was issued by the NRC on March 16, 1989 to the Corporations. This Order required the preparation of plans for site characterization and decontamination and specified, as part of the required site characterization plan, that "the plan shall specify the amount of funds that each of the Corporations is to provide for implementation of the plan" (section VII.B of the Order).

In two letters dated April 17, 1989, the Corporations filed answers to the March 16, 1989 Order. On June 2, 1989, after receiving an extension of time to comply with the requirement of the Order to submit a characterization plan for the site, the Corporations submitted a Joint Characterization Plan (JCP) prepared by IT Corporation for providing a radiological assessment of the Bloomsburg facility. The NRC reviewed

the plan and found that it did not satisfy the terms of the Order in a number of significant respects, which were described in a letter from the NRC to the Corporations dated June 16, 1989. The NRC informed the Corporations that they were in apparent violation of the Order, and described the actions that might follow as a result of this failure to comply with the terms of the Order. Among the many apparent violations of the Order, the NRC noted in its June 16, 1989 letter that the Corporations had failed to specify funding as required by section VII.B of the Order.

The other apparent violations of the Order included: (1) The failure to describe a complete radiological and geohydrological survey of all facilities and of the surrounding surface and subsurface soil and groundwater to determine radionuclide concentrations and their lateral and depth profiles, as well as their movement in the groundwater; (2) the failure to provide for the characterization of the source of tritium contamination and for the radioactive source term, and for assessment of contaminant transport in the groundwater; (3) the failure to address the assessment of the extent to which lagoons and drainage canals are actively releasing contaminants to the environment; (4) the failure to address the characteristics of the sources of radiological contamination which may exist off-site, in general, or on the adjacent property, in particular; (5) the failure to address the assessment of the extent and rate of the off-site transport of contaminated groundwater; and (6) the failure to describe the actions that will be taken to determine whether Sr-90 and other radioactive nuclides besides tritium have also been transported off-site in groundwater.

Subsequently, the NRC held an Enforcement Conference with the Corporations on July 6, 1989. At that conference, the NRC informed the Corporations that the JCP failed to comply with the requirements of the March 16, 1989 Order. With respect to the financial aspects of the JCP, the Corporations made it clear that the JCP submitted on June 2, 1989, was intended to determine if there are any immediate health effects and reflected the Corporations' limited financial capability. The Corporations indicated that implementation of the June 2, 1989 JCP was estimated to cost \$116,000 and that implementation of the characterization plan required by the Order would cost about \$1,000,000. The Corporations reiterated their limited financial condition in a letter to the NRC dated July 14, 1989 and stated that

approximately \$115,000 was the total amount of funds available for site characterization. The NRC has independently estimated the cost of implementation of the site characterization plan which meets the requirements of the March 16, 1989 Order and has determined that \$1,000,000 (plus or minus 30%) is a reasonable estimate. Based upon information provided to the NRC by the Corporations, it appears that the net income of Safety Light Corporation is approximately \$200,000 per year and USR Industries is presently running a deficit. Assets of USR Industries appear to be approximately \$5,000,000, some of which may be encumbered. The President of USR Industries indicated a willingness to sell an interest in a building in Houston, Texas, to raise funds to accomplish the JCP proposed by the Corporations.

By letter dated August 10, 1989, the Corporations submitted a site characterization plan prepared by IT Corporation. The August 10th plan was stated to meet the intent of NRC's Order of March 16, 1989. While this plan described certain planning, implementation, reporting, scheduling, and quality assurance activities, the plan failed to provide any indications related to the funding to implement the plan, as required by the March 16, 1989 Order and as indicated previously in the NRC's letter dated June 16, 1989. By letter dated August 17, 1989, Safety Light Corporation certified that it committed to jointly fund the plan with USR Industries, et al. up to a total of \$115,000, of which Safety Light will fund fifty percent, with the balance required for implementation of the plan being sought from their insurance carriers. By certification dated August 18, 1989, USR Industries, Inc. and its wholly owned subsidiaries certified that they intend to fund the plan up to 50 percent of projected total costs of \$115,000 and to the extent practicable seek the balance of funds from their respective insurance carriers. These certifications are inadequate to provide assurance that the require site characterization plan, which is estimated to cost approximately \$1,000,000,000 will be funded. The continued failure to assure adequate funding to complete implementation of a site characterization plan which satisfies the March 16th Order is a significant concern to the NRC. The NRC's assessment of the technical adequacy of the plan will be described in future correspondence.

IV

The Corporations' failure to provide assurance of adequate funding to complete implementation of a satisfactory site characterization plan, the uncertainty regarding the nature and extent of contamination at the Bloomsburg facility, and the statements made by the Corporations' principal officers as to the limited financial resources available for site characterization, let alone decontamination, demonstrate that additional actions are immediately needed to protect public health and safety by assuring that sufficient resources are made available by the Corporations to initiate the site characterization and taken necessary immediate remedial action for any significant health and safety problems. Based on the above, I have determined, pursuant to 10 CFR 2.204, that the public health, safety, and interest require that this Order be made immediately effective.

V

In view of the foregoing, and pursuant to sections 81, 161b, 161c, 161i, 161o, 162 and 166 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.204 and 10 CFR parts 30 and 32, It is Hereby Ordered, effective immediately, that license Nos. 37-00030-02, -08, 07E, -00G, and -10G are modified as follows:

A. The Corporations shall establish a trust pursuant to a trust agreement as specified below and, within 30 days of the date of this Order, shall submit an originally signed duplicate of the trust agreement to the Regional Administrator, NRC Region I (hereafter referred to as Regional Administrator);

B. The trustee must be an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a Federal or State agency;

C. The Corporations:

1. Shall make payments into the trust fund on or before the dates specified in the following schedule:

Date	Deposit required
October 2, 1989	50,000
November 1, 1989	50,000
December 1, 1989	50,000
January 2, 1990	50,000
February 1, 1990	100,000
March 1, 1990	100,000
April 2, 1990	100,000
May 1, 1990	100,000
June 1, 1990	100,000
July 2, 1990	100,000
August 1, 1990	100,000
September 4, 1990	100,000
Total	1,000,000

The Corporations shall be jointly and severally responsible for satisfying this payment schedule:

2. Shall, within 7 days of payment scheduled under section V.C.1 above, certify to the Regional Administrator, under oath or affirmation, that the payment has been made as required;

3. May accelerate payments into the trust fund or may deposit the full amount specified above at the time the fund is established. However, they must maintain the value of the fund at no less than the value that the fund would have if the payments were made as specified above;

4. Will be deemed to be without the required financial assurance or liability coverage in the event of bankruptcy of the trustee, or a suspension or revocation of the authority of the trustee institution to act as trustee, and must establish a new trust that meets the requirements given below within 60 days after such an event.

D. The trust agreement shall provide that:

1. The Corporations shall be the Grantors of the trust;

2. The Grantors shall establish the trust to provide assurance that funds will be available to implement an NRC-approved plan to characterize the type and extent of the radioactive contamination at the Bloomsburg facility and to take immediate remedial action at any time such action is necessary;

3. The Grantors shall designate an identified individual, who is a responsible corporate officer, as the Grantors' authorized representative, and two alternates;

4. The Grantors or the Grantors' authorized representative shall, with written approval from the Regional Administrator, select a contractor to implement the site characterization plan, which contractor will be the beneficiary of the trust, and which may be replaced by the Grantors on reasonable notice, with written approval from the Regional Administrator;

5. The Grantors or the Grantors' authorized representative shall have the option of selecting one or more additional contractors to plan or implement remedial action at the facility, or both, with the written approval from the Regional Administrator, which contractors would be additional beneficiaries of the trust, and which may be replaced by the Grantors on reasonable notice, with

written approval from the Regional Administrator:

6. The Trustee shall make disbursements from the trust fund to the beneficiary or beneficiaries as the Grantors or the Grantors' authorized representative shall direct in writing, with written approval of the Regional Administrator for disbursements exceeding \$5,000, or as the Regional Administrator shall direct in writing:

7. The Grantors' payments of principal into the trust fund shall consist of cash, but may also consist of short-term obligations of the United States government or other property as the Regional Administrator shall approve in writing:

8. The Trustee shall invest and reinvest the principal and income of the trust fund, including interest earned, and keep the trust fund invested, without distinction between principal and income, in accordance with the following provisions: the Trustee shall hold the trust fund in demand deposits that earn interest and are insured by an agency of the United States government or in short-term obligations of the United States government, provided, however, that the Trustee may hold cash awaiting investment or distribution for a reasonable time (approximately five working days) without liability for the payment of interest:

9. The Trustee shall: (1) Within seven days after the end of each month beginning with October 1989, provide to the Regional Administrator a summary of the disbursements made during the past month to include: the date of disbursement, amount of disbursement, party receiving disbursement, and purpose for or activity accomplished by disbursement; and (2) within seven days after the end of each quarter beginning October 2, 1989, furnish to the Regional Administrator a summary accounting statement of the trust fund for the past quarter, to include: amounts paid into the trust fund, disbursements from the trust fund, interest earned, and the current value of the trust fund;

10. The Trustee may resign, or the Grantors may replace the Trustee, but such resignation or replacement shall not be effective until (1) the Grantors notify the Regional Administrator in writing that the Grantors have appointed a successor trustee and that the successor trustee has accepted the appointment; (2) the successor trustee assumes administration of the trust;

11. The Trustee shall implement orders, requests, and instructions only if they are in writing and signed by either the Grantors or the Grantors' authorized representative, with a copy to the Regional Administrator, or if they are in

writing and signed by the Regional Administrator:

12. The Trustee shall notify the Grantors and the Regional Administrator, by certified mail, within seven days following the expiration of the seven day period after each month following the establishment of the Trust, if no payment is received from the Grantors during that period:

13. The trust agreement may be amended by an instrument in writing executed by the Grantors and the Trustee, with the written approval of the Regional Administrator, or by the Trustee and the Regional Administrator if the Grantors cease to exist:

14. The Trust shall be irrevocable and shall continue until terminated at the written agreement of the Grantors, the Trustee and the Regional Administrator, or by the Trustee and the Regional Administrator if the Grantors cease to exist:

15. Wherever the trust agreement refers to the Regional Administrator, it shall also be deemed to refer to the Regional Administrator's designee or the NRC Deputy Executive Director for Nuclear Materials Safety, Safeguards, and Operations Support or his designee.

E. Should the Corporations' total payments into the trust fund (\$1,000,000) be insufficient to fund implementation of the site characterization plan or to take necessary immediate remedial action and the trust fund be exhausted, the Regional Administrator may, at his discretion, and in writing, require the Grantors to make additional payments totalling no more than \$300,000 into the trust fund.

The Regional Administrator or the Deputy Executive Director for Nuclear Materials Safety, Safeguards, and Operations Support, may, in writing, relax, rescind, or modify any provision of this Order upon the showing by the Corporations, in writing, of good cause. This authority includes, but is not limited to, the authority to extend deadlines and to permit the establishment of separate trust funds with good cause shown, so long as the Corporations otherwise satisfy the requirements of this Order.

VI

The Corporations or any person adversely affected by this Order may request a hearing within 20 days of the date of its issuance. Any answer to this Order or request for a hearing shall be addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555, with a copy to the Assistant General Counsel for Hearings and Enforcement, Office of

the General Counsel, at the same address, and to the Regional Administrator, NRC Region I, 475 Allendale Road, King of Prussia, Pennsylvania 19406. If a hearing is requested by the Corporations, the Commission will issue an Order designating the time and place of hearing. If a hearing is held, the issue to be considered at the hearing shall be whether this Order should be sustained. If a person other than the Corporations requests a hearing, that person shall set forth with particularity the manner in which the petitioner's interest is adversely affected by this Order and should address the criteria set forth in 10 CFR 2.714(d). An answer to this Order or Request For Hearing shall not stay the immediate effectiveness of this Order. Upon the failure of the Corporations herein named to answer or request a hearing within the time specified, this Order shall be final without further proceedings.

Dated at Rockville, Maryland this 21st day of August 1989.

For the Nuclear Regulatory Commission

Hugh L. Thompson, Jr.,

Deputy Executive Director for Nuclear Materials Safety, Safeguards, and Operations Support.

[FR Doc. 89-20499 Filed 8-30-89; 8:45 am]

BILLING CODE 7880-01-0

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for Office of Management and Budget Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

SUMMARY OF PROPOSAL(S):

- (1) *Collection title:* Application for Employee Annuity Under the Railroad Retirement Act
- (2) *Form(s) submitted:* AA-1, AA-1d and G-204
- (3) *OMB Number:* 3220-0002
- (4) *Expiration date of current OMB clearance:* 04/30/80
- (5) *Type of request:* Revision of a currently approved collection
- (6) *Frequency of response:* On occasion
- (7) *Respondents:* Individuals or households
- (8) *Estimated annual number of respondents:* 16,700
- (9) *Total annual responses:* 22,325



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

SEP 11 1989

D. Jane Dreiman, Esq.
1615 L Street NW
Suite 650
Washington, DC 20036

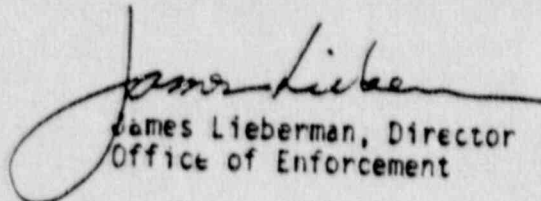
Dear Ms. Drennan:

We have considered your request for an extension of time to file an answer and a request for a hearing on behalf of Safety Light Corporation in response to the Order issued by the NRC on August 21, 1989.

Your request for an additional 20 days to file these documents is granted. Accordingly, any answer and/or a request for a hearing on behalf of Safety Light Corporation is due no later than October 2, 1989.

This extension is granted as to the filing of the specified documents only. All other provisions of the Order of August 21, 1989 remain in effect, and must be satisfied by the dates imposed therein unless the Order is relaxed or modified in writing on a showing of good cause. Any failure to create the trust and submit the trust agreement to the NRC by September 21, 1989, and to meet the payment schedule in the Order, will be considered a violation of the Order.

Sincerely,


James Lieberman, Director
Office of Enforcement

~~8910250121~~ JP.

RW

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of:

SAFETY LIGHT CORPORATION,
et al.

)	DOCKET NOS.	030-05980
)		030-05881
)		030-05892
)		030-08335
)		030-08444
)	LICENSE NOS.	37-00030-02
)		37-00030-08
)		37-00030-07E
)		37-00030-09G
)		37-000030-10G

MOTION OF SAFETY LIGHT CORPORATION
FOR AN EXTENSION OF TIME TO FILE
AN ANSWER AND TO REQUEST A HEARING

Pursuant to 10 C.F.R. § 2.711 (1989) of the Nuclear Regulatory Commission's ("NRC" or "Commission") Rules of Practice for Domestic Licensing Proceedings, Safety Light Corporation ("Safety Light") respectfully requests an extension of time to file an answer to the August 21, 1989 Order Modifying Licenses ("August 21 Order") in the above-captioned proceeding. Safety Light also requests additional time to consider whether to file a request for a hearing in the same proceeding.

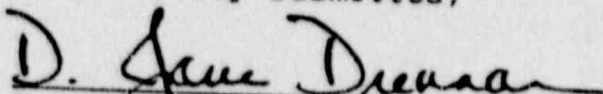
In its August 21 Order, the Commission directed Safety Light and other interested parties to file an answer and/or request a hearing within 20 days from the issuance of the

instant order. To comply with the August 21 Order, Safety Light must file its answer or request for hearing by Monday, September 11, 1989.

On September 6, 1989 Safety Light retained the undersigned as counsel to represent the company in this proceeding. As Safety Light's Washington counsel, the undersigned has not had sufficient time to review the case and thus, is not prepared to file an answer on Monday, September 11, as required by the August 21 Order.

WHEREFORE, Safety Light requests the Commission for an additional 20 days to file its answer to the August 21 Order, and an additional 20 days to consider whether to request a hearing.

Respectfully Submitted,



D. Jane Brennan, Esq.
1615 L Street, N.W.
Suite 650
Washington, D.C. 20036
(202) 659-3005

Counsel For
SAFETY LIGHT CORPORATION

Dated this 8th day of September, 1989

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was served upon the following by mail on this 8th day of September, 1989:


James Lieberman
Director, Office of Enforcement
U.S. Nuclear Regulatory Commission
ATTN: DOCUMENT CONTROL DESK
Washington, D.C. 20555

Assistant General Counsel for Enforcement
Office of the General Counsel
U.S. Nuclear Regulatory Commission
ATTN: DOCUMENT CONTROL DESK
Washington, D.C. 20555

Hugh L. Thompson, Jr.
Deputy Executive Director for Nuclear Safety,
Safeguards and Operations Support
U. S. Nuclear Regulatory Commission
Washington, D.C. 20555

William Russell
Regional Administrator
NRC Region I
475 Allendale Road
King of Prussia, PA 19406

Lee Bettenhausen
Division Director
NRC Region I
475 Allendale Road
King of Prussia, PA 19406


D. Jane Drennan

Dated: September 8, 1989