

9488

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

21

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

_____ )		
In the Matter of:	)	
	)	
Safety Light Corporation	)	
United States Radium Corporation	)	Docket Nos. 030-05980
USR Industries, Inc.	)	030-05982
USR Lighting, Inc.	)	030-05981
USR Chemical, Inc.	)	030-08335
USR Metals, Inc.	)	030-08444
U.S. Natural Resources, Inc.	)	
Lime Ridge Industries, Inc.	)	
Metreal, Inc.	)	
	)	
(Bloomsburg Site Decontamination)	)	(ASLBP No. 89-590-01-0M)
	)	
_____ )		

MOTION TO DISMISS ORDERS ISSUED  
MARCH 16, 1989, AND AUGUST 21, 1989

USR Industries, Inc., USR Lighting, Inc., USR Chemical Products, Inc., USR Metals, Inc. and U.S. Natural Resources, Inc. (collectively, "USR Industries") move this Board to dismiss two immediately effective Nuclear Regulatory Commission ("NRC") orders issued March 16, 1989 and August 21, 1989, in the above-captioned action, to the extent they apply to the movants.

As more fully set forth in the accompanying memorandum of law, the March 16, 1989 Order and the August 21, 1989 Order should be dismissed with respect to USR Industries on several grounds. First, the NRC does not have regulatory jurisdiction

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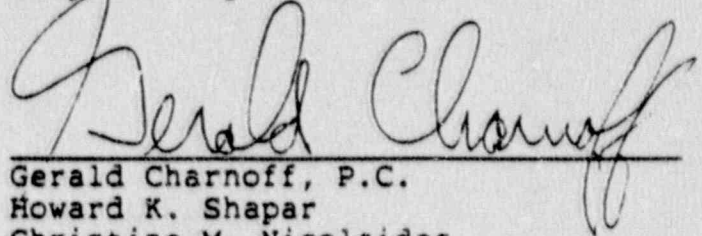
USR Industries, Inc., USR Lighting, Inc., USR Chemical Products, Inc., USR Metals, Inc. and U.S. Natural Resources, Inc. (collectively, "USR Industries") move this Board to dismiss two immediately effective Nuclear Regulatory Commission ("NRC") orders issued March 16, 1989 and August 21, 1989, in the above-captioned action, to the extent they apply to the movants.

As more fully set forth in the accompanying memorandum of law, the March 16, 1989 Order and the August 21, 1989 Order should be dismissed with respect to USR Industries on several grounds. First, the NRC does not have regulatory jurisdiction

over USR Industries who is neither now, nor has ever been, an NRC licensee or in possession of NRC regulated materials. Although Safety Light Corporation ("SLC"), the licensee, was, for a short period, a wholly-owned subsidiary of USR Industries, under well-settled principles of corporations law, its liabilities and obligations do not pass to USR Industries. Second, the alleged failure of USR Industries and SLC to give prior notice to the NRC of the corporate reorganization in 1980 and the related transfer of non-regulated corporate assets of SLC to its shareholder did not vest NRC with jurisdiction over USR Industries; there was no NRC requirement in 1980, nor is there now, that the NRC be notified when a licensee transfers non-regulated corporate assets to its shareholders. Third, the NRC received notice of the sale of the stock of the licensee, SLC, to its executive officers in 1983, and for over five years never questioned the substance of that notification nor suggested that the transfer constituted a violation. By its acceptance of that notification, and its consistent and uninterrupted treatment of SLC as the licensee for over five years, the NRC acquiesced in the transaction, and thereby relinquished any jurisdictional claims it might have had over the prior stockholders of SLC, i.e., USR Industries.

Finally, there is no basis for making either order immediately effective, because the circumstances at the site raise no immediate public health or safety concerns.

Respectfully submitted,



Gerald Charnoff

Gerald Charnoff, P.C.  
Howard K. Shapar  
Christine M. Nicolaides

Shaw, Pittman, Potts & Trowbridge  
2300 N Street, N.W.  
Washington, D.C. 20037  
(202) 663-8000

Attorneys for USR Industries, Inc.  
USR Metals, Inc., USR Lighting,  
Inc., USR Chemical Products, Inc.  
and U.S. Natural Resources, Inc.

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