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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

OFFICE OF GENERAL INVESTIGATION  
DOCKETING & SERVICE  
BRANCH

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judge:  
Peter B. Bloch

SERVED NOV 29 1989

In the Matter of  
ROCKWELL INTERNATIONAL  
CORPORATION  
Rocketdyne Division  
(Special Material License  
Number SNM-21)

Docket No. 70-25-ML

Request to Renew  
To October 1990

ASLBP No. 89-594-01-ML

MEMORANDUM AND ORDER

(Memorandum from Gregory P. Yuhas of November 15, 1989)

Yesterday I received a copy of a Memorandum for Leland C. Rouse, written by Gregory P. Yuhas, Chief, Emergency Preparedness & Radiological Protection Branch, Region V, dated November 15, 1989.<sup>1</sup>

The Memorandum and attached Inspection Report, 70-25/89-05, relates in part to matters raised by Donald W. Wallace at the limited appearance session that I held on September 28, 1989. However, the inspector did not appear to have consulted with Donald W. Wallace either before or after the inspection. As a consequence, the report considers a portion of the transcript of the limited

<sup>1</sup>This document will be served on the parties in this case.

appearance session in this case -- without benefit of interaction with the speaker -- and a face-to-face interaction with Rockwell personnel.

The Inspection Report appears to exonerate Rockwell. However, a closer reading calls that conclusion into question. Mr. Yuhas transmits to us Mr. C. A. Hooker's conclusion that there was no "adequate review and revision of the offsite support section of the RCP [by Rockwell] following the closure of the DeSoto facility" and that this was not appropriately addressed in the July 1988 revision to the RCP.<sup>2</sup> The report also indicates that Rockwell discovered unspecified inadequacies in its on-site emergency response plan at about the same time I posed questions to it about its plan. At that time, Rockwell began a task group to review the off-site portion of the on-site emergency plan. That group apparently has not yet finished its work, so that its findings were not available to the inspector.<sup>3</sup>

Although the inspector concluded that there were no violations with respect to the inadequacies in the specification of offsite resources in the on-site emergency plan, he did not specify the reasons for reaching this conclusion.

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<sup>2</sup>Yuhas Memorandum at ¶2.

<sup>3</sup>Inspection 70-25/89-05 at 8. Notice that two hospitals apparently were listed in the plan as "supportive in any emergency situation that may arise" but that no firm agreement existed to corroborate this conclusion. Id at 6-7.

Nor is it clear whether he considered the possibility that there had been a violation of NRC regulations by submitting misstatements -- apparently negligent or grossly negligent misstatements -- in an application for a license.

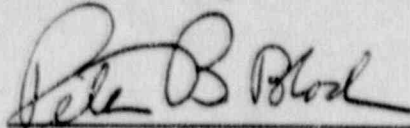
Under the circumstances, Rockwell should file with this Board a statement concerning the factual accuracy and the adequacy of the on-site emergency plan originally filed as part of its license application. Upon receipt of that statement, which should be filed within 30 days, the Intervenor shall have fifteen additional days to respond with respect to this issue, after which Staff may have an additional 10 days within which to comment. (Since Mr. Wallace is an intervenor, it is not necessary for the Staff to consult with him in person about its response but it is encouraged to do so for the sake of courtesy and completeness.)

For the purpose of this issue only, I find pursuant to 10 CFR § 2.1213 that the Staff's participation would aid



materially in the resolution of this issue<sup>4</sup> and that they should therefore be a party with respect to this one issue.<sup>5</sup>

Respectfully ORDERED,



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Peter B. Bloch  
Presiding Officer

November 28, 1989  
Bethesda, Maryland

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<sup>4</sup>This is a concern of Donald W. Wallace, who is hereby admitted as a party to this case. He lives less than ten miles from the site, works about five miles from the site and owns undeveloped property two miles from the site. One of his concerns is "that Rockwell has falsified its on-site radiological contingency plan." Tr. 218-19; "Petition of Donald W. Wallace for Leave to Intervene as a Party," November 22, 1989. Although Rockwell has not responded to the written petition and has a right to do so, it has consistently refused to respond to petitions. If it chooses to respond in this instance, I would reconsider this decision in light of its filing.

<sup>5</sup>I have been encouraged because the parties appear to be favorably disposed toward the settlement of this case. I consider an appropriate settlement, mindful of issues that might affect safety, to be of overriding importance because it can address even those issues that concern the parties but cannot be litigated. (The issues included in this memorandum are, of course, subject to an appropriate settlement among the parties.)

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of

ROCKWELL INTERNATIONAL CORPORATION

(Rocketdyne Division, Special  
Nuclear Materials License SNM-21)

Docket No. (s) 70-25-ML

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB M&O (11/15/89 YUHAS MEMO) 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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Docket No. (s)70-25-ML  
LB M&O (11/15/89 YUHAS MEMO)

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Dated at Rockville, Md. this  
29 day of November 1989

*Patty Henderson*  
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Office of the Secretary of the Commission

\*Copies served by Federal Express.