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USNRC

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

'90 FEB 20 P3:46

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

In the Matter of

ALL CHEMICAL ISOTOPE ENRICHMENT,
INC.

(AlChemIE Facility-1 CPDF)

and

(AlChemIE Facility-2 Oliver Springs)

Docket Nos. 50-603 and 50-604 - *om/sc*

ASLBP No. 89-596-01-OM/SC

NRC STAFF MOTION FOR ISSUANCE OF A LICENSING
BOARD SCHEDULING ORDER

I. BACKGROUND

All Chemical Isotope Enrichment, Inc. (licensee) is the holder of Construction Permits (licenses) numbered CPEP-1 and CPEP-2, issued by the Nuclear Regulatory Commission (NRC or Staff) pursuant to 10 CFR Part 50. Construction Permit No. CPEP-1 was issued on February 10, 1989, and was amended on June 20, 1989, to extend its latest date for completion to November 3, 1989. On October 2, 1989, licensee filed a timely request for a further extension of the latest completion date. This request is still under advisement. Construction Permit No. CPEP-2 was issued on February 10, 1989, and has a latest date for completion of March 31, 1992.

On August 18, 1989, the NRC staff's Deputy Executive Director for Nuclear Material Safety, Safeguards and Operations Support issued an "Order Modifying License and Order to show cause Why Licenses Should not be Revoked" to licensee stating that, effective immediately, Construction Permits Nos. CPEP-1 and CPEP-2 were modified to require notification to the Commission before licensee took possession of any classified equipment

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from the Department of Energy and that the licensee show cause why Construction Permits Nos. CPEP-1 and CPEP-2 should not be revoked.

With respect to the Order issued on August 18, 1989, licensee on August 31, 1989, and again on or about September 6, 1989, requested a hearing which was referred to this Atomic Safety and Licensing Board (Licensing Board). Since September 6, 1989, licensee has, however, failed to take any action before the Licensing Board to prosecute its request for a hearing.

On January 17, 1990, the Chairman of this Licensing Board addressed a joint letter to counsel for licensee and counsel for the Staff requesting "...information on how [they] expected to move the captioned proceeding on the hearing calendar in this new year." By letter dated January 26, 1990, Staff counsel advised the Licensing Board that counsel for the parties had conferred by telephone; and, that it was licensee's desire to have this matter held in abeyance indefinitely. Staff counsel does not agree to this approach. ^{1/}

II. MOTION

Based on the foregoing circumstances, the Staff, pursuant to 10 C.F.R. § 2.730 moves the Licensing Board to issue an Order setting the following schedule for the further conduct of this proceeding.

^{1/} Staff Counsel also stated in the January 26, 1990, letter that the Staff has under serious consideration issuance of a second order to licensee which would revoke Construction Permit Nos. CPEP-1 and CPEP-2. This option is still under consideration.

Time Sequence After Issuance

of Scheduling Order 2/

Event

5 Days	Commence Discovery <u>3/</u>
35 Days	Complete Discovery
50 Days	File Motion(s) for Summary Disposition
65 Days	Response to Motion(s) for Summary Disposition
85 Days	Board Ruling on Summary Disposition
100 Days	Written Direct Testimony Filed
110 Days	Motions to Strike Testimony Filed
120 Days	Responses to Motions to Strike Testimony Filed
140 Days	Evidentiary Hearing Commences <u>4/</u>

2/ If any date under this time sequence falls on a Saturday, Sunday or federal holiday, the controlling date would be the next federal work day.

3/ At the present time, the staff contemplates utilizing written interrogatories and requests for production documents, depositions and requests for admissions of facts.

4/ The Board could rule verbally on any motions to strike testimony at the commencement of the evidentiary hearing.

The Staff takes this opportunity to advise licensee that in the event licensee does not respond to this motion, or if it fails to comply with any aspect of a Licensing Board scheduling Order, the Staff will pursuant to relevant provisions of 10 C.F.R., Part 2, move for the entry of an order by this Board dismissing this proceeding, inter alia, for failure to respond to this motion or to comply with any aspect of a Licensing Board scheduling Order.

III. CONCLUSION

For the reasons set out above, the Staff moves for the entry of a scheduling order to control the further conduct of this proceeding.

Respectfully submitted,

Bernard M. Bordenick
Bernard M. Bordenick

Counsel for NRC Staff

Dated at Rockville, Maryland
this 16 day of February, 1990

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NUCLEAR REGULATORY COMMISSION

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Docket Nos. 50-603 and 50-604
ASLBP No. 89-596-01-0M/SC

CERTIFICATE OF SERVICE

I hereby certify that copies of "NOTICE OF APPEARANCE" in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class, or as indicated by an asterick through deposit in the Nuclear Regulatory Commission's internal mail system, this 16th day of February, 1990:

Morton B. Margulies, Chairman*
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

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Atomic Safety and Licensing Appeal
Board Panel (5)*
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Atomic Safety and Licensing
Board Panel (1)*
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Frederick J. Shon*
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Adjudicatory File*
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

1/ Copy also sent to Mr. Irving at:

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