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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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ATOMIC SAFETY AND LICENSING BOARD

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Before Administrative Judge  
Peter B. Bloch

In the Matter of	)	
	)	
THE CURATORS OF	)	Docket Nos. 70-00270-MLA
THE UNIVERSITY OF MISSOURI	)	30-02278-MLA
	)	
(Byproduct License	)	Re: TRUMP-S Project
No. 24-00513-32;	)	
Special Nuclear Materials	)	ASLBP No. 90-613-02-MLA
License No. SNM-247)	)	

INTERVENORS' MOTION TO SET ASIDE ORDER OF SEPTEMBER 4, 1990  
(COMPLETENESS OF THE HEARING FILE)

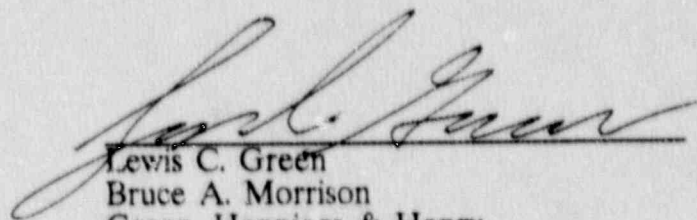
On September 4, 1990, the Presiding Officer issued an order that the Staff of the Nuclear Regulatory Commission shall be a party to this case with respect to all issues related to the Hearing File. Intervenor respectfully request that this order be set aside.

As the Presiding Officer has previously noted (Order, July 30, 1990), the Staff "is a non-party with no interest in restricting Intervenor's access to publicly available documents." The Presiding Officer was then correct. The Staff has, indeed, no legitimate interest in restricting Intervenor's access to the publicly available documents, which should be a part of the hearing file. The Staff's responsibility here is clerical or ministerial, not adversarial. The order of September 4 appears to create, or more accurately legitimize, an adversarial role

for the Staff.

It is true, as Intervenors have pointed out in other papers filed in this proceeding, that the Staff is playing an adversarial role, aligning itself with the Applicant and abusing its responsibility to provide a hearing file expeditiously. By repeatedly refusing to present a proper hearing file, over a period of months, the Staff has achieved its goal of preventing the Intervenors from renewing their motion for stay, based upon a proper hearing file, until after the experiments on transuranics have commenced. The Staff has thus obstructed, rather than aided, the administration of justice. This conduct of the Staff is to be criticized, not blessed with a stamp of legitimacy.

It is one thing to recognize the facts, but quite another thing to confer upon the facts a superficial stamp of legitimacy. Where the Staff has no legitimate adversarial interest, it should not be made an adversary party. The order of September 4 should be set aside.



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**CERTIFICATE OF SERVICE**

True copies of the foregoing were mailed this 11<sup>th</sup> day of September 1990, by United States Express Mail, postage prepaid, to:

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U.S. Nuclear Regulatory Commission  
Washington, DC 20555

The Honorable Gustave A. Linenberger, Jr.  
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