

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judge  
Peter B. Bloch

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

SUMMARY OF ACTIONS TAKEN  
DURING CONFERENCE CALL OF OCTOBER 19, 1990

At 10:15 a.m. on October 19, 1990, a conference call was placed by the Presiding Officer with Mr. Lewis Green and Mr. Maurice Axelrad. The Presiding Officer explained that the purpose of the call was to inform the parties that he would be away from his office during the week of October 22, 1990. He wanted to ascertain whether the parties planned to file any pleadings that would require him to take materials with him or whether the parties wanted to raise any matters.

Mr. Green suggested that the conference call be transcribed. The Presiding Officer stated that this was not possible without 12 hours advanced notice. Mr. Axelrad pointed out that long-standing NRC practice permitted conference calls to be held without being transcribed as long as any actions taken during the conference are subsequently recorded in writing. The Presiding Officer decided to proceed with the conference call,

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and later requested Mr. Axelrad to provide a summary of the results to him and to Mr. Green by 3:00 p.m. of October 19.

Mr. Axelrad noted that Intervenors had filed their direct case and a request for a stay by first class mail on October 15, 1990. These documents were received by mail at the University on October 17 and at Mr. Axelrad's office on October 18. Under the Presiding Officer's previous scheduling order the Licensee's response to the direct case was due 20 business days after receipt of the direct case (i.e., on November 14), but the response to the request for a stay was due earlier, i.e., within 10 days. (The precise due date for the response to the request for a stay is discussed below.)

Mr. Axelrad pointed out that since Intervenors' request for a stay apparently incorporated their entire direct case, a full and complete response to the request for a stay would require Licensee to present its entire direct case within 10 days. He argued that in view of the voluminous direct case filed by Intervenors, it would not be possible for Licensee to prepare and file its complete direct case in 10 days, and that it would be grossly unfair to Licensee and lead to an inadequate record to require Licensee to respond within 10 days. Accordingly, he requested that the time for Licensee's response to the request for a stay be extended to the same date that its direct case is due. He noted that when the Presiding Officer previously denied Licensee's anticipatory request for an extension, he had stated that when an actual request for a stay

was received: "After reviewing all the circumstances of a stay request, I will be in a better position to adjust deadlines in the interest of fairness, impartiality and the avoidance of delay." See Memorandum and Order (Schedule for Renewal of Stay Motion and for Basic Case) 3-4 (Sep. 4, 1990).

Mr. Green objected to Mr. Axelrad's request. He argued, to the contrary, that in view of the showings made in Intervenor's filings, the conduct of the TRUMP-S experiments should be stayed immediately.

The Presiding Officer inquired whether TRUMP-S experiments would be held during the period to November 14. Mr. Axelrad responded that Phase I-A experiments had been completed, and that Phase I-B experiments were expected to begin within the next few days and to continue through November 14.

The Presiding Officer then expressed immediate concerns that he had with respect to Licensee's activities upon reviewing the Intervenor's pleadings. As a result of the ensuing discussion, he ordered that:

1. The due date for Licensee's response to the request for a stay was extended to November 14, 1990 except for the two following matters:

- a. Licensee will respond to Intervenor's allegation that the plutonium possessed by Licensee exceeded 2 curies and that Licensee possessed plutonium in excess of the amount authorized by the subject license amendment; and

b. Licensee will respond to Intervenor's allegation that the Columbia Fire Department would not fight a fire at the Alpha Laboratory involving radioactive materials, and Licensee will describe the arrangements with the Columbia Fire Department that provide assurance of an adequate response to a fire relating to the TRUMP-S experiments.

2. Licensee will call NRC Region III and/or NRC counsel on October 19, 1990 to inform the NRC Staff of Intervenor's allegations that Licensee possesses plutonium in excess of the amount authorized by the subject license amendment.

The Presiding Officer asked Mr. Green whether there were any other matters in the request for a stay that he deemed to be of equivalent importance to the two identified by the Presiding Officer and would warrant response within 10 days. Mr. Green stated that all aspects of the request for a stay and direct case were important and should be responded to within 10 days. The Presiding Officer decided not to expand the foregoing order.

Mr. Axelrad mentioned an ambiguity regarding whether the due date for the response to the request for a stay was October 30 or October 31. At Mr. Green's suggestion, the Presiding Officer decided that the due date was October 30.

Mr. Green noted that in all likelihood Intervenor would want permission to respond to any new information in Licensee's response to the request for a stay. It was agreed

that Licensee would file its response by overnight mail on October 30, and that the Presiding Officer would place a conference call at 3:00 p.m. (Eastern time) on November 1 to consider any request by Intervenors for authority to file such a response.

Mr. Green suggested that Licensee make available to intervenors a copy of any documents referenced in Licensee's responses that are not readily available. Mr. Axelrad agreed to provide any such document upon request by Intervenors, and Mr. Green similarly agreed that he would provide to Licensee upon request any documents referenced in Intervenors' filings that are not readily available.

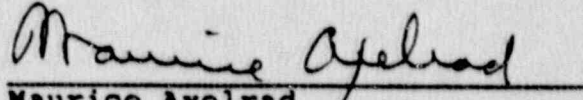
The Presiding Officer stated that if Licensee disagreed with Intervenors' interpretations of the Seehars and Schwendiman articles, he would request that the Intervenors provide him with copies of the articles or the portions thereof relied upon by the Intervenors. Mr. Axelrad agreed that if Licensee disagreed with those interpretations it would so inform Intervenors and the Presiding Officer within 10 days, which Licensee understands to mean in its response to the request for a stay.

The Presiding Officer also noted that it would be useful if the parties' pleadings referenced specific pages in a cited document, rather than referencing the entire document. It was agreed that if the Presiding Officer desires more specific references from any party, he would request such information in a

manner that includes the other party (e.g., conference call or written request served on all parties).

There being no other matters raised by the parties or the Presiding Officer, the conference call was ended.

Respectfully submitted,

  
Maurice Axelrad

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Date: October 19, 1990

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

DOCKETED  
USNRC

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judge  
Peter B. Bloch

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DOCKETING & SERVICE  
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ASLBP No. 90-613-02-MLA

CERTIFICATE OF SERVICE

I hereby certify that copies of "Summary of Actions taken during Conference Call of October 19, 1990" were served upon the following persons by deposit in the United States mail, postage prepaid and properly addressed on the date shown below:

The Honorable Peter B. Bloch \*/  
Administrative Judge  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
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The Honorable Gustave A. Linenberger, Jr.  
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U.S. Nuclear Regulatory Commission  
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Attn: Chief, Docketing & Service Section  
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Atomic Safety and Licensing Appeal Board Panel  
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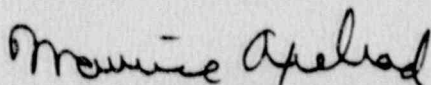
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Dated this 19th day of October, 1990.



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