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NOT ADMITTED IN D.C.

November 14, 1990

The Honorable Peter B. Bloch
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Re: University of Missouri - TRUMP-S Project
Docket Nos. 70-00270, 30-02278-MLA
ASLBP NO. 90-613-02-MLA

Dear Judge Bloch:

Enclosed are:

- (1) Licensee's Written Presentation;
- (2) Licensee's Response to Intervenors' Renewed Stay Request ("Licensee's Stay Response"); and
- (3) Licensee's Response to "Intervenors' Motion for Summary Disposition and Other Relief"

Together with Licensee's Submittal in Accordance with "Memorandum (Memorandum of Conference Call of October 19, 1990)" ("Licensee's October 30 Submittal") (Oct. 30, 1990), these documents present a comprehensive response to the Written Presentation of Arguments of Intervenors and Individual Intervenors ("Intervenors' Written Presentation") (Oct. 15, 1990) and to Intervenors' Renewed Request for Stay Pending Hearing ("Renewed Stay Request") (Oct. 15, 1990).

In Licensee's judgment, its filing demonstrates without a shadow of doubt that Intervenors' concerns are totally devoid of any legal or factual basis. In Intervenors' Written Presentation, Intervenors have misunderstood or misapplied basic

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legal and regulatory provisions. They have generally relied on abstract generalities from literature research, rather than facts; and have often misused or misrepresented both generalities and facts.

In the Renewed Stay Request they have failed to show that they are likely to prevail on the merits or that they will suffer any injury from the conduct of the TRUMP-S experiments; while Licensee has shown that it will suffer significant harm from a stay and that the public interest favors the continuation of the TRUMP-S experiments.

Thus, Licensee is convinced that the Presiding Officer will deny Intervenors' renewed request for a stay pending completion of this proceeding and will, at the conclusion of the proceeding, uphold the subject license amendments.

While the Presiding Officer is reviewing these comprehensive materials, there is one additional matter that requires his immediate attention, namely the dissolution of the temporary stay of TRUMP-S experiments involving plutonium, neptunium and americium that was issued by the Presiding Officer on October 20, 1990. Memorandum and Order (Grant of Temporary Stay) ("Temporary Stay Order") LBP-90-35, ___ NRC ___ (issued on Oct. 20, 1990; reissued with editorial changes on Oct. 22, 1990).

Upon receipt of Licensee's October 30 Submittal, the Presiding Officer issued the Memorandum and Order (Licensee's Partial Response Concerning Temporary Stay) (the "Partial Response Order"), LBP-90-38, ___ NRC ___ (Nov. 1, 1990). There, he found that "many of the grounds for the temporary stay have been eroded" but that the temporary stay will remain in effect pending the filing of Licensee's response concerning the Intervenors' "likelihood of success on the merits concerning the use of improperly tested HEPA filters." Partial Response Order, ___ NRC ___, slip op. at 2-3.

Licensee believes that it had satisfactorily addressed that subject in the Affidavit of J. Steven Morris Regarding Temporary Stay Application (Aug. 23, 1990) (the "August Morris Affidavit"), which the Presiding Officer had found persuasive in denying the then pending request for a temporary stay. See Memorandum and Order (Temporary Stay Request) LBP-90-30, ___ NRC ___ (Aug. 24, 1990). However, since the Presiding Officer, in issuing a temporary stay on October 20, 1990, expressed some concerns as to whether the Licensee's exhaust system conformed to industry practice, Licensee retained Mr. Veryl G. Eschen, an expert on the design of plutonium glove box ventilation and exhaust systems, to provide his opinion on the adequacy of the

systems at the Alpha Laboratory. Mr. Eschen visited the Alpha Laboratory for two days and inspected the argon glove box and laboratory ventilation system to familiarize himself with the operation in order to provide an analysis of the argon glove box exhaust system and respond to Intervenor's related comments. The Affidavit of Veryl G. Eschen Regarding Argon Glovebox Exhaust System ("Eschen Affidavit") (Licensee's Written Presentation, Licensee's Exhibit 7) provides the result of his review.

As summarized in Section F.1.b. of Licensee's Written Presentation, Mr. Eschen met with Mr. Steppen, who had originally suggested that another DOP testable-in-place HEPA filter should be installed, in order to determine why he felt that such additional filter was needed. After carefully reviewing the design of the argon glove box system, the multiplicity of failures that would be required for postulated scenarios, and the redundant features built into the existing design, Mr. Eschen explains in detail his conclusion that the redundancy provided by the additional filter proposed by Mr. Steppen is not necessary. He also reviews arguments raised in various Intervenor's Exhibits and shows that the present design meets the basic single failure and redundancy criteria of DOE Order 6430.1A, 1/ that the in-place-testable HEPA filters at the Alpha Laboratory satisfy the standards included in Intervenor's Exhibits 9 and 10, that testing-in-place is not required for a filter (such as HEPA-1) for which credit is not taken in a safety analysis, and that HEPA-1 would usefully perform the function of a roughing filter or prefilter under another section of DOE Order 6430.1A.

Dr. Morris also notes that DOE's Health Physics Manual of Good Practice for Plutonium Facilities (PNL-6434) (May 1988) explicitly contemplates that filters, such as HEPA-1, would be provided at a glove box exhaust outlet to keep ventilation duct work clean, would not need to be tested in place, but would be tested prior to installation (as was HEPA-1).

Thus, the affidavits of both Mr. Eschen and Dr. Morris demonstrate that the argon glove box ventilation system satisfies appropriate standard industrial practices. Mr. Eschen further concludes that "the argon glovebox ventilation system represents a reasonable 'state of the art' system and meets the requirements of the program as presented."

1/ It should be noted that the Affidavit of Dr. J. Steven Morris Regarding Steppen Suggestions and Comments (Licensee's Written Presentation, Licensee's Exhibit 8) shows (at ¶ 5) that DOE Order 6430.1A does not apply to the Alpha Laboratory.

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Accordingly, Licensee's Written Presentation fully addresses the Presiding Officer's last lingering concern in connection with the temporary stay order.

Licensee should additionally point out that, in view of some concerns expressed by the Presiding Officer in the Temporary Stay Order regarding the potential off-site effects of a severe accident, Licensee also retained Mr. Daniel J. Osetek, an expert both on glove box design and severe accidents, to provide an additional evaluation of those matters. Mr. Osetek also visited the site for two days, examined the Alpha Laboratory and TRUMP-S experimental apparatus, reviewed the operating procedures and interviewed project personnel to obtain relevant information. The results of his review are contained in the Affidavit of Daniel J. Osetek Regarding Safety of the TRUMP-S Project (Licensee's Written Presentation, Licensee's Exhibit 1).

Mr. Osetek's analysis is referred to in various portions of Licensee's Written Presentation, and is very briefly summarized in Section F.1. Suffice it to say that he explains in some detail the basis for his views that both the probability and the consequences of a severe accident at the Alpha Laboratory are very low. He concludes that "the project presents acceptably low risk to the health and safety of facility personnel, the general public and the environment."

In addition, Licensee's Written Presentation contains a detailed explanation and justification of Dr. Morris' original analysis of off-site impacts (see Section F.1.d), a highly conservative analysis prepared by Dr. Langhorst using the generic approach described in NUREG-1140, "A Regulatory Analysis on Emergency Preparedness for Fuel Cycle and Other Radioactive Materials License" (Jan. 1988) (see Section F.1.e), and devastating criticisms of the so-called "real safety analysis" contained in Intervenor's Exhibit 1 (see Section F.1.f).

No doubt is left that an accident at the Alpha Laboratory would have negligible effect on the public.

As recognized by the Presiding Officer, the grant of an ex parte "temporary stay" under 10 CFR § 2.788(g) is limited to "extraordinary cases." Temporary Stay Order at 4-5. In Licensee's view, this provision must require not only that highly unusual circumstances exist, but that the petitioner make a particularly strong showing that satisfies the 10 CFR § 2.788(e) factors.

As is demonstrated in Licensee's Response to Intervenor's Renewed Request for a Stay, all of the 2.788(e)

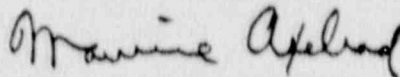
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factors weigh strongly against grant of Intervenor's request for a stay pending completion of this proceeding. They weigh even more heavily against the continuation of the present temporary stay.

Intervenor has not made a strong showing that they will prevail on any of their concerns, and certainly not with respect to the testability of HEPA-filters. They have made a particularly weak showing on irreparable injury; while Licensee has made a strong showing on the present harm of the temporary stay, the compounding effect of any future stay, and the public interest that favors continuation of the TRUMP-S program.

For all of these reasons, and particularly since the Presiding Officer's sole remaining concern regarding the testability of HEPA filters has been satisfied, Licensee urges that the Presiding Officer immediately dissolve the temporary stay.

Respectfully submitted,



Maurice Axelrad

/tg

Enclosures

cc: Service List