

08/13/82

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of )  
U.S. ECOLOGY, INC. ) Docket No. 27-39  
(Sheffield, Illinois Low-Level )  
Radioactive Waste Disposal Site) )

STATEMENT OF THE NRC STAFF CONCERNING  
PROGRESS IN ONGOING SETTLEMENT NEGOTIATIONS

By Order dated July 14, 1982, this Board requested the parties to file status reports as to their progress in negotiations to settle this proceeding. By Order dated August 2, 1982, this Board granted the unopposed motion of the NRC Staff to file its report ten days after such reports have been filed by the other parties. Timely reports have been filed by U.S. Ecology and Intervenor, the State of Illinois ("Illinois"). It appears that no other party will be filing reports, therefore, the Staff report is now timely.

The Staff and U.S. Ecology first jointly moved this Board approximately a year ago for a continuation of proceedings in order to permit time for settlement negotiations. That motion, as well as all similar motions, have been unopposed. Since that time, the NRC Staff has been exchanging technical information with both U.S. Ecology and Illinois with

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respect to the low-level radioactive waste disposal facility at Sheffield. In addition, at both the technical and management levels, the NRC Staff and U.S. Ecology have been meeting for the purpose of discussing, in the context of settlement negotiations, compliance by U.S. Ecology with the NRC Staff's "Site Stabilization And Closure Conditions," previously provided to the Board and parties. Substantial progress has been made in addressing the fifteen points, and it is hoped that at, or immediately before, the current period granted by the Licensing Board for such discussions (October 1, 1982), a more detailed summary can be provided. Since some of the points are currently under negotiation, and since the outcome of discussions on those points may have an affect on other points, a more detailed delineation of progress should more prudently await the October date. However, the Staff believes it fair to say that some of the fifteen points appear to have been satisfactorily addressed by U.S. Ecology at this point in time, with negotiations on the open or unresolved issues continuing.

The State of Illinois has been invited by the NRC Staff to participate in these negotiations with U.S. Ecology, but has limited its participation to the exchange of technical information, rather than the settlement negotiations. The NRC Staff has made the State aware of the status of its discussions with U.S. Ecology during its discussions with the State at both the technical and management levels, and it is the NRC Staff's hope that the State will enter the settlement discussions with U.S. Ecology and the Staff, just as it has participated in the exchange of technical information. It is the Staff's understanding, in addition, that the State has offered to meet bilaterally with U.S. Ecology on matters which

concern a combination of: (i) this proceeding; (ii) a State Court proceeding arising out of some of the same operative facts as this proceeding; and (iii) an unrelated State Court action concerning an adjacent chemical site operated by U.S. Ecology. Since point three of the Staff's fifteen site closure and stabilization conditions provides that institutional arrangements for long-term custodial care be made between U.S. Ecology and its land owner and lessor, the State of Illinois, it is the Staff's expectation that both U.S. Ecology and the State will meet before long in an attempt to negotiate, and hopefully resolve, this, as well as any other points of difference regarding settlement which may exist between those parties.<sup>1/</sup>

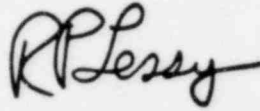
In summary, there has been a substantial narrowing of issues with good faith negotiations ongoing, as above described, which focus upon the Staff's fifteen points. It is the Staff's expectation that these negotiations will have been concluded before the end of this calendar year and, at that time, or shortly thereafter, the outcome will be either a complete settlement or a partial settlement of issues, for review

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<sup>1/</sup> In its status report, the State has proposed a framework for discussions which it contends "no party can reasonably disagree." Since the technical basis for this framework is not given, the Staff is not in a position to agree or disagree with it. The preferred framework, however, for these settlement discussions, the Staff believes, is its fifteen points as above described.

by the Licensing Board in accordance with the procedures governing show cause proceedings. See 10 C.F.R. § 2.203.<sup>2/</sup>

Respectfully submitted,



Roy P. Lessy  
Deputy Assistant Chief Hearing  
Counsel

Dated at Bethesda, Maryland  
this 13th day of August, 1982.

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<sup>2/</sup> One further point needs brief mentioning. As the Board knows, U.S. Ecology has returned to the site and has undertaken to comply with the license as a licensee. In its report, U.S. Ecology indicated that it ". . . plans to continue these arrangements while meaningful negotiations are ongoing" ("Statement of U.S. Ecology Regarding Status of Settlement Negotiations," p. 2). The Staff merely regards this statement as incomplete, as this statement is not consistent with the determination by the Commission that the Director's show cause order requiring Neco (U.S. Ecology's predecessor) to return to the site should ". . . remain in effect at least until the issues have been resolved by a Licensing Board." Nuclear Engineering Co. (Sheffield, Ill. Low-Level Radioactive Waste Disposal Site), CLI-79-6, 9 NRC 673, 679 (1979). U.S. Ecology's statement may also be incomplete with reference to injunctive relief ordered by an Illinois State Court in People of the State of Illinois v. Teledyne Inc., et al., No. 78-MR-25 (Ill. Cir. Ct. for the 13 Cir., filed March 27, 1979). See 9 NRC at 679, n.2.

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CERTIFICATE OF SERVICE

I hereby certify that copies of "STATEMENT OF THE NRC STAFF CONCERNING PROGRESS IN ONGOING SETTLEMENT NEGOTIATIONS" 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 asterisk, through deposit in the Nuclear Regulatory Commission's internal mail system, this 13th day of August, 1982:

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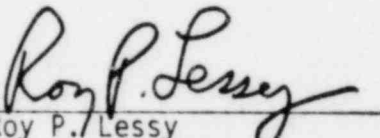
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