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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

ATOMIC SAFETY AND LICENSING BOARD

'94 FEB -1 P2:06

Before Administrative Judges:

G. Paul Bollwerk, III, Chairman
Dr. Charles N. Kelber
Dr. Peter S. Lam

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In the Matter of

INDIANA REGIONAL CANCER CENTER

(Order Modifying and
Suspending Byproduct Material
License No. 37-28179-01)

Docket No. 030-30485-EA
EA 93-284
ASLBP No. 94-685-02-EA
February 1, 1994

ORDER
(Prehearing Conference Order)

On January 26, 1994, the Board conducted a prehearing conference in this proceeding. During the course of that proceeding, after discussion with the parties, the Board made a number of rulings on discovery and other matters. Those rulings are as follows:

I. Dispositive Motions

The parties shall have up to and including Monday, February 28, 1994, within which to file a dispositive motion relative to any of the issues specified in the parties' January 18, 1994 joint prehearing report.¹ Any response to

¹ On December 2, 1993, licensee Indiana Regional Cancer Center (IRCC) and Dr. Bauer filed a joint answer contesting the November 16, 1993 enforcement order at issue here. Although the answer made no specific mention of a hearing,

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a dispositive motion shall be filed on or before Thursday, March 31, 1994, and a reply to any response shall be filed on or before Friday, April 15, 1994. The parties' dispositive motions, responses, and replies shall be served on the Board and the opposing party in a manner (e.g., express mail) that will ensure receipt by the next business day.

II. Discovery

A. Discovery by the parties shall be completed on or before Friday, May 27, 1994.²

¹(...continued)

the cover letter accompanying the answer stated that "the Licensee" was requesting a hearing on the order. Given Dr. Bauer's clear opposition to the order as evidenced by the joint answer, we will construe the hearing request in the related cover letter as encompassing Dr. Bauer as well. The staff apparently has given the letter a similar interpretation, as evidenced by the fact that the January 18, 1994 joint prehearing report does not specify any issue regarding Dr. Bauer's status as a "party" in this proceeding.

² The parties may by agreement and without leave of the Board enlarge the time for providing answers to interrogatories or to admissions or for producing documents, so long as they comply with the overall deadline for completing discovery established by the Board. The times established in the NRC rules of practice for filing objections or a motion to compel regarding any discovery request may be extended only with leave of the Board.

Further, in accordance with 10 C.F.R. § 2.740b(a), a party's answers to interrogatories should be filed with the Secretary of the Commission and copies should be served on each Board member. A party's responses to a request for admissions also should be filed with the Secretary and copies served on the Board's members. In the absence of a specific Board request, a party should not file with the

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B. In seeking discovery from IRCC or Dr. Bauer in the form of interrogatories or requests for admissions or production of documents, the staff should earmark any individual interrogatory, admission, or document production request (or any particular part thereof) that involves matters concerning the staff's January 20, 1993 suspension order in the pending Oncology Services Corporation proceeding that are or could be the subject of an agency criminal referral to the United States Department of Justice.³

III. Other Matters

A. Following the close of discovery, the parties shall have thirty days within which to file any further dispositive motions relating to this proceeding. Any response to such a dispositive motion shall be filed within thirty days of service of the motion. The parties' dispositive motions and responses shall be served on the Board and the opposing party in a manner (e.g., express mail) that will ensure receipt by the next business day.

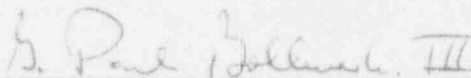
²(...continued)
Secretary or serve the Board with any materials provided in response to a request for production of documents.

³ Although this particular directive was not discussed with the parties during the prehearing conference, the Board is imposing this requirement in an effort to clarify the status of certain discovery objections it anticipates will be made. See Tr. at 16-18, 132-33.

B. Any proposed transcript corrections relating to the January 26, 1994 prehearing conference shall be filed on or before Wednesday, February 9, 1994.

It is so ORDERED.⁴

FOR THE ATOMIC SAFETY
AND LICENSING BOARD



G. Paul Bollwerk, III, Chairman
ADMINISTRATIVE JUDGE

Bethesda, Maryland

February 1, 1994

⁴ Copies of this order are being sent this date to counsel for IRCC and Dr. Bauer by facsimile transmission and to staff counsel by E-Mail transmission through the agency's wide area network system.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of

INDIANA REGIONAL CANCER CENTER,
INDIANA, PA
(Byproduct Material License No.
37-28179-01 - EA 93-284)

Docket No.(s) 30-30485-EA

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB ORDER (PREH. CONF. ORDER) have been served upon the following persons by U.S. mail, first class, except as otherwise noted and in accordance with the requirements of 10 CFR Sec. 2.712.

Administrative Judge
G. Paul Bollwerk, III, Chairman
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Administrative Judge
Charles N. Kelber
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, DC 20555

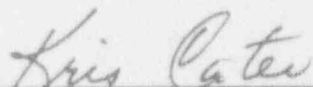
Administrative Judge
Peter S. Lam
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
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Pottsville, PA 17901

Dated at Rockville, Md. this
1 day of February 1994


Office of the Secretary of the Commission