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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

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 FOR RECONSIDERATION
OF MEMORANDUM AND ORDER OF OCTOBER 15, 1990,
(MOTION FOR ORDER CONCERNING DOCUMENTS)

Come now Intervenors and move for reconsideration of the Memorandum and Order of October 15, 1990.

The Order is a matter of lesser concern. If the Presiding Officer really believes that no Order is needed to persuade the Licensee and Staff to comply with the rules, so be it. However, Intervenors' Motion for Summary Disposition, etc., furnishes additional grounds for reconsideration of the Order.

Aside from the Order, the Memorandum is of great concern, for two reasons.

1. The Presiding Officer has apparently "conclude[d] that Licensee correctly

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interprets the regulations as exempting TRUMP-S from the requirement for an environmental assessment . . . " (pp. 4-5). Yet the question of the need for an environmental assessment is one of the admitted areas of concern. The Presiding Officer has apparently reached this conclusion even before the Intervenors have presented their arguments, which were not due to be mailed until October 15.

The question is one which should be decided only after it has been fully briefed and argued, in a written presentation filed after entry of this Memorandum and Order, the response, the rebuttal and sur-rebuttal which are to follow. There is in fact extensive argument directed toward that issue in Intervenors' Written Presentation, filed on October 15 (see pp. 24-25, 50). In reaching this conclusion at this stage, the Presiding Officer is jumping the gun. Intervenors respectfully urge that this much of the Memorandum be withdrawn.

2. The Presiding Officer has concluded that Intervenors "have not shown the relevance of [the financial assurance statement and statement of intent] to any admitted area of concern or to the two challenged amendments" (p. 5).

The relevance to the amendments is shown by the amendments themselves. The regulations require the filing of such a financial assurance statement as part of the application, although they permit the statement to be filed late. The financial assurance statement is more than "relevant" to the amendment; it is required to be a part of the application. 10 CFR §§ 30.32(h), 70.22(a)(9). Arguably, it is permitted to be filed as late as July 27, 1990, but it must be filed. The amendment itself explicitly requires full compliance with the letter transmitting the license application, including the enclosed application, and each application concludes with the commitment to file the requisite certificate of financial assurance or decommissioning plan by July 27.

The relevance to the safety concerns of the Intervenors, particularly area of concern No. 1, should be apparent without any additional showing. The cited regulations exist solely to assure the public safety. There is no reason other than concern for safety to require that, before some person begins to irradiate a site by radioactive experimentation, he give assurance that he will clean up the premises when the project has been completed. It is precisely to insure the public safety that this requirement has been made a pre-condition to issuing the license. Any layman knows, without expert testimony, that the dangers of fire or other accident are going to increase every year that a nuclear processing facility ages in disuse, unattended. This is pointed out at page 26 of the written presentation of arguments of Intervenors, submitted on October 15. That is why the cited regulations were promulgated. If that point should not be conceded by the University, Intervenors can, with their rebuttal, provide expert testimony to that effect, although it should not be necessary.

In Intervenors' view, these two decisions should not be made at all, but the contrary decision should be reached, in due course. In anybody's view, however, these decisions should not be reached before the case is briefed and argued. Intervenors respectfully request that these two rulings be withdrawn.

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CERTIFICATE OF SERVICE

True copies of the foregoing were mailed this 25th day of October 1990, by United States Express Mail, postage prepaid, to:

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