

11257

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

DUCKETED  
USNRC

ATOMIC SAFETY AND LICENSING BOARD

'90 DEC 31 P3:45

Before Administrative Judges:

B. Paul Cotter, Jr., Chairman  
Dr. Richard H. Foster  
Dr. Peter S. Lam

OFFICE OF SECRETARY  
DUCKETING & SERVICE  
BRANCH

(u)

SERVED JAN - 2 1991

In the Matter of:  
  
FEWELL GEOTECHNICAL  
ENGINEERING, LTD., ET AL.  
  
(Thomas E. Murray,  
Radiographer)

Docket No. 030-30870-OM

ASLBP No. 91-629-01-OM

(Byproduct Material  
License)

December 31, 1990

MEMORANDUM AND ORDER  
(Scheduling)

On November 2, 1990, the Deputy Executive Director of the Nuclear Regulatory Commission modified the License of Fewell Geotechnical Engineering, Ltd., effective immediately. The Order modifying the license, published in the Federal Register on November 13, barred Fewell from using Thomas E. Murray, a Fewell radiographer working under its license, in any licensed work for a period of three years. 55 Fed. Reg. 47411 (1990). By memorandum dated November 18 and docketed November 21, 1990, Mr. Murray responded to the bases given for the order and requested a hearing. The hearing request was forwarded to the Licensing Panel a month later, and this Board was appointed December 21, 1990.

9101150282 901231  
NMSS LIC30  
53-23288-01 PDR

5502

Mr. Murray may be entitled to a hearing as a party or intervenor pursuant to 10 C.F.R. § 2.714(d) (1990). Compare O'Bannon v. Town Court Nursing Center, 447 U.S. 773 (1980), with Public Service Co. of Indiana, 11 NRC 438 (CLI-80-10, 1980). In view of Mr. Murray's apparent loss of livelihood and the passage of time, that issue should be decided with all due speed. See also, 10 C.F.R. § 2.204 (1990).

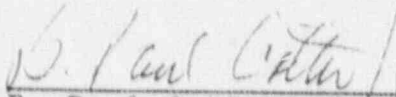
Accordingly, during the week of December 30, 1990, the Board will schedule and hold a conference call with the parties to address the issue and, if appropriate, schedule a hearing and arrange for the completion of any steps necessary to holding that hearing. As stated in the Federal Register notice, the issue for hearing would be whether the Order should be sustained.

In the interim, the Staff is directed to file with this Board copies of the basic documentation upon which the order for modification was based. That documentation should include Fewell's license, Fewell's Operating and Emergency Procedures, Mr. Murray's license, Mr. Murray's deposition, any reports of the events of October 23 and 25, 1990 on which the Order appears to have been based, and anything else the Staff deems relevant to the action taken in the Order.

Mr. Murray should be prepared to advise this Board in the conference call whether he will be represented by counsel or will appear on his own behalf. If he has any additional information he wishes the Board to take into consideration, he should forward it promptly.

Both Mr. Murray and the Staff should be prepared to agree upon a hearing date in late January or early February.

FOR THE ATOMIC SAFETY AND  
LICENSING BOARD

  
\_\_\_\_\_  
B. Paul Cotter, Jr., Chairman  
ADMINISTRATIVE JUDGE

Issued at Bethesda, Maryland,  
this 31st day of December 1990.

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of

FEWELL GEOTECHNICAL ENGINEERING,  
LTD.  
(Byproduct Material License No.  
53-23288-01 (EA-90-190))

Docket No. (s) 30-30870-0M

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB M&O (SCHEDULING) TD 12/31  
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.

Atomic Safety and Licensing Appeal  
Board  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

Administrative Judge  
B. Paul Cotter, Chairman  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

Administrative Judge  
Peter S. Lam  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

Administrative Judge  
Richard F. Foster  
P. O. Box 4263  
Sunriver, OR 97707

Office of the General Counsel  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

Thomas E. Murray  
802 Prospect Street, Apt. 601  
Honolulu, HI 96813

Fewell Geotechnical Engineering, Ltd.  
96-1416 Waihana Place  
Peal City, HI 96782

Regional Administrator  
Region V  
1450 Maria Lane, Suite 210  
Walnut Creek, CA 94596

Dated at Rockville, Md. this  
2 day of January 1991

*Patty Henderson*  
-----  
Office of the Secretary of the Commission