

MAR 28 1990

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of

SAFETY LIGHT CORPORATION
UNITED STATES RADIUM CORPORATION
USR INDUSTRIES, INC.
USR LIGHTING, INC.
USR CHEMICAL PRODUCTS, INC.
USR METALS, INC.
U.S. NATURAL RESOURCES, INC.
LIME RIDGE INDUSTRIES, INC.
METREAL, INC.
(Bloomsburg Site Decontamination)

Docket Nos.: 030-05980
030-05982
030-05981
030-08335
030-08444

ASLBP No. 89-590-01-OM
90-598-01-OM-2

NRC STAFF RESPONSE TO SUPPLEMENTAL INTERROGATORIES
FILED BY USR INDUSTRIES, INC. et al

I. INTRODUCTION

On February 15, 1990, USR Industries, Inc. et al (USR Industries) filed supplemental interrogatories with the Presiding Officer and asked that the NRC Staff (Staff) be required to answer. The Staff filed a response on March 1, 1990, opposing the request on grounds that (1) the information sought was not necessary to a decision in the proceeding ^{1/}

^{1/} The information requested concerns transfer of control by any Part 30 licensee by transfer of stock. The Staff opposed the discovery request because USR Industries did not show how this information is relevant to the Staff order which is the subject of this proceeding. Furthermore, the Licensing Board determined by Order dated January 29, 1990 that "transfers of control of the licenses by corporate restructuring [by USR Industries] were invalid as to the NRC..." LBP-90-03 (slip. op. at 21), 31 NRC _____. Accordingly, the Staff continues to believe that unauthorized transfer of license or transfer of control over the license by other licensees, is irrelevant to the transfer of control of the licenses in this

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and (2) the information is available elsewhere. By Order dated March 14, 1990 the Licensing Board directed the Staff to respond to the supplemental interrogatories. The Staff hereby complies with that Order.

II. RESPONSE TO INTERROGATORIES

As indicated in the attached affidavit, the Commission does not index materials licenses according to applications for transfer of stock, transfer of control or transfer of licenses. Therefore, the information provided herein is based on information known to the NRC Staff presently employed in materials licensing and in the current files in the offices of materials licensing branches. Consequently, it is not possible to point to a particular index or location within the Commission's public document room where the information sought by these interrogatories could be readily found.

Interrogatory 1

Identify all NRC personnel with knowledge of requests by Part 30 licensees, made both prior to and subsequent to the effective date of Information Notice 89-25, for NRC consent, pursuant to Section 184 of the Atomic Energy Act of 1954, as amended, and/or 10 C.F.R. § 30.34b, to transfers of Part 30 licenses in cases where the purported basis for the transfer of control of the Part 30 license was the transfer of stock in a corporation.

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proceeding. Moreover, in the Staff's view, these interrogatories, to the extent relevant at all, pertain only to the issue of NRC's jurisdiction over USR Industries, a matter already resolved in LBP-90-03, which constitutes the law of the case on this issue.

Response 1

Only three such requests were found as indicated in Response 2. The persons knowledgeable about these licensees are:

Frank Costello - Region I
John Kinneman - Region I
Kevin Nul - Region III

Interrogatory 2

Identify all documents that discuss, refer or relate to requests by Part 30 licensees, made both prior to and subsequent to the effective date of Information Notice 89-25, for NRC consent, pursuant to Section 184 of the Atomic Energy Act of 1954, as amended and/or 10 C.F.R. 30.34b, to transfers of Part 30 licenses in cases where the purported basis for the transfer of control of the Part 30 license was the transfer of stock in a corporation.

Response 2

(1) General Electric Co. purchased RCA Corporation stock in 1987: License Nos. 29-04563-02, 29-04563-03 (documents attached).

(2) Damon Biotech proposes transfer of stock to Abbot Labs (documents to be provided when retrieved by Region I).

(3) Doctor's Regional Medical Center: License No. 24-16714-01, November 1989 (documents attached).

Interrogatory 3

Identify any and all instances in which a request by Part 30 licensee for NRC consent, pursuant to Section 184 of the Atomic Energy Act of 1954, as amended, and/or 10 C.F.R. § 30.34b, to a transfer of a Part 30 license was denied for any reason, and identify the bases for such denials.

Response 3

No such instances have been identified.

Interrogatory 4

For each instance identified in supplemental interrogatory number 3, identify the NRC personnel with knowledge of such denial.

Response 4

See response to interrogatory 3.

Interrogatory 5

Identify any and all instances in which 100% of the stock of a corporation holding a Part 30 license was transferred and no prior NRC consent thereto was either sought or given.

Response 5

- (1) U.S. Radium Corp.;
- (2) Firestone Tire and Rubber Co. (documents attached);
- (3) The Nucleus, Inc. (documents attached)
- (4) AECL to Nordion International, Inc. (documents attached)

Interrogatory 6

For each instance identified in supplemental interrogatory number 5 identify the NRC personnel with knowledge of such denial.

Response 6

No denial was involved.

Interrogatory 7

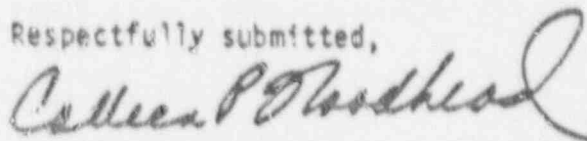
In the NRC Staff Response to the Oil, Chemical and Atomic Workers International Union Local 3-677, Request for a Hearing on Transfer of NFS - Erwin Nuclear Fuels Facility to Nuclear Assurance Corporation at 543 (February 11, 1986), In the Matter of Nuclear Fuel Services Inc., Docket No. 70-143., the Staff asserted that "we do not necessarily conclude that the acquisition of all stock of a licensee will in all cases fall within the purview of Section 184." (emphasis original) Identify (a) the types of cases in which the acquisition of all stock of a licensee would fall within the purview of Section 184; and (b) the types of cases in which the acquisition of all stock of a licensee would not fall within the purview of Section 184.

Response 7

The Staff could not anticipate every type of possible stock transfer, and merely indicated that it is prudent to consider each situation on its own terms. However, in the NFS-Erwin case, the Staff did determine that transfer of all the stock of the licensee was transfer of control. For cases discussing stock ownership and control of license pursuant to § 184 of the Atomic Energy Act, see, for example, Arizona Public Service Company, et al. (Palo Verde Nuclear Generating Station, Unit 1), CLI-85-17, 22 NRC 875 (1985) (sale and leaseback of interest in nuclear plant is not transfer of control); Public Service Company of Indiana, Inc. (Marble Hill Nuclear Generating Station, Units 1 and 2), ALAB-459, 7 NRC 179 (1978) (partial ownership of a nuclear plant requires license); Commonwealth Edison Company (Zion Station, Units 1 and 2), 4 AEC 231 (1969) (control is the power to direct

the actions of the license); General Electric Company and Southwest Atomic Energy Associates (SEFOR), 3 AEC 99 (1966) (funding and participation by scientists in construction and research is not control).

Respectfully submitted,



Colleen P. Woodhead
Counsel for NRC Staff

Dated at Rockville, Maryland
this 28th day of March, 1990.