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June 17, 1994

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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD  
OFFICE OF SECRETARY  
BOARDING & SERVICE  
BRANCH

In the Matter of	)	
	)	
CAMEO DIAGNOSTIC CENTRE, INC.	)	Docket No. 030-29567-CivP
SPRINGFIELD, MASSACHUSETTS	)	
	)	E.A. 93-005
(Byproduct/Source Material License	)	
No. 20-27908-01)	)	

NRC STAFF'S MOTION TO RESUME HEARING SCHEDULE

INTRODUCTION

Pursuant to 10 C.F.R. § 2.730, the staff of the Nuclear Regulatory Commission (Staff) hereby moves the Atomic Safety and Licensing Board (Board) designated to preside in the above-captioned proceeding to lift the suspension of the discovery schedule imposed by the Board in its "Memorandum and Order (Appointing Settlement Judge)" (Board Order), dated May 4, 1994. As part of its motion, the Staff requests that discovery proceed in the manner set forth in the attachment to this motion.

BACKGROUND

On February 14, 1994, the Board issued an order, which, among other things, granted the January 28, 1994 joint motion of the Staff and Cameo Diagnostic Centre, Inc. (Licensee) for adoption of a hearing schedule. Memorandum and Order (Following Prehearing Conference), dated February 14, 1994 at 4. In accordance with the hearing schedule, the Staff served discovery requests on the Licensee. "NRC Staff Interrogatories and Request For Production of

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Documents and Request For Admissions," (Staff Discovery Request) dated March 22, 1994. During a telephone conference on April 26, 1994, Mr. Paul Rosenbaum, the Licensee's president, moved the Board for the appointment of a settlement judge, and the Board suspended the discovery schedule pending the Staff's response to the Licensee's motion.<sup>1</sup> Tr. at 52. The Staff responded on April 29, 1994, agreeing to the motion. On May 4, 1994 the Board appointed Judge Peter B. Bloch to act as a settlement judge in the proceeding and ordered that the discovery schedule be suspended until further order of the Board. Board Order at 2. On June 7, 1994, Judge Bloch reported to the Board that settlement negotiations had resulted in an apparent deadlock and that the case should not be further delayed in attempting to reach a settlement. *See* Notice: Failure to Reach Settlement, dated June 7, 1994.

#### DISCUSSION

In light of the deadlock in settlement negotiations, and in the interest of a speedy resolution to the pending litigation, the Board should lift its order suspending the discovery schedule. The discovery schedule has been suspended since the telephone conference on April 26, 1994. At that time, discovery was 71 days into the 90 day discovery schedule adopted by the Board on February 14, 1994, and the Staff was anticipating responses to the Discovery

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<sup>1</sup> The conference call was initiated at the behest of the Staff and the Licensee in order to resolve the issues presented in the Licensee's "Motion to Deny Staff Request For Production of Documents. . .and to Allow Substituting Licensee's Prepared Testimony to the February 18, 1993 Enforcement Conference as an Alternative" (Motion), dated April 21, 1994. Tr. 26. During the conference call, the Board reviewed the first few interrogatories of the Staff's March 22, 1994 Discovery Request in light of the Licensee's Motion. *See* Tr. 30-42. This process was interrupted by discussions relating to the appointment of a settlement judge. Tr. 42. While the Staff is not moving the Board to reschedule the conference call to review the remainder of the Staff's discovery requests, the Staff would have no objection to such a conference call.

Request it had served on the Licensee on March 22, 1994. The Staff, therefore, proposes the attached schedule.

CONCLUSION

For the reasons discussed above, the Staff requests that the Board lift the suspension of the discovery schedule and adopt the attached proposed schedule.

Respectfully submitted,

*Catherine L. Marco*

Catherine L. Marco  
Counsel for NRC Staff

Dated at Rockville, Maryland  
this 17th day of June, 1994

Cameo Diagnostic Centre, Inc.  
Proposed Schedule

ATTACHMENT

EVENT	TIME
Commence Discovery	Upon issuance of an order approving discovery schedule
Licensee's Response to Staff's Discovery Request of March 22, 1994	10 days (after issuance of an order approving discovery schedule)
End Discovery	20 days (after issuance of an order approving discovery schedule)*
Motions for Summary Disposition	60 days (after issuance of an order approving discovery schedule)
Answers to Motions for Summary Disposition	30 days from service of Motion
Pre-filed written testimony (optional) (In the event proceeding is not totally disposed of through Summary Disposition Motions)	15 days from Board ruling on any Summary Disposition Motion
Commence Hearing (unless proceeding is totally disposed of through Summary Disposition Motions)	15 days after pre-filed written testimony is filed (or 30 days from Board ruling in the event pre-filed written testimony is not filed)
Notes:	
1.	If any date falls on a Saturday, Sunday or Federal holiday, the due date shall be the next business day.
2.	The schedule may be shortened or enlarged upon motions for good cause shown.

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\* In the event the Staff files a motion to compel responses to the Staff's March 22, 1994 Discovery Request, the schedule may need to be readjusted.

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No. 20-27908-01) )

CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF MOTION TO RESUME HEARING SCHEDULE" 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 17th day of June, 1994:

Judge Ivan W. Smith, Board Chairman\*  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Adjudicatory File (2)\*  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Dr. Richard F. Cole\*  
Administrative Judge  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Office of the Secretary (2)\*  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555  
Attn: Docketing and Service Branch

Dr. Charles N. Kelber\*  
Administrative Judge  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Atomic Safety and Licensing Board  
Panel (1)\*  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Mr. Paul J. Rosenbaum  
Cameo Diagnostic Centre, Inc.  
130 Maple Street  
Springfield, MA 01103

Office of Commission Appellate  
Adjudication (1)\*  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

*Catherine L. Marco*  
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