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LBP-91-11110  
April 9, 1991

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

Before Administrative Judge  
Peter B. Bloch

Technical Advisor: Peter Lam, Administrative Judge

In the Matter of  
  
THE CURATORS OF  
THE UNIVERSITY OF MISSOURI  
  
(Byproduct License  
No. 24-00513-32;  
Special Nuclear Materials  
License No. SNM-247)

Docket Nos. 70-00270  
30-02278-MLA

RE: TRUMP-S Project

ASLBP No. 90-613-02-MLA

SERVED APR 10 1991

MEMORANDUM AND ORDER  
(Question About Staff Questions)

MEMORANDUM

The purpose of this memorandum is to obtain information with which to evaluate the significance for this proceeding of a letter to the Licensee from John D. Jones, Materials Licensing Section of the U.S. Nuclear Regulatory Commission, dated March 13, 1991. That letter states:

We have reviewed your application for renewal of Type A Broad Scope Material License No. 24-00513-32 dated April 28, 1988. Due to changes in regulations, licensing policy, and volume of material submitted over many years we are requesting that

The letter was transmitted to me on March 27, 1991, by Licensee, apparently pursuant to its continuing obligation to keep me informed of arguably relevant events. Subsequently, I received "Intervenors' Motion for Reconsideration of Memorandum and Order LBP-90-45, December 19, 1990, etc.", April 1, 1991, and "Licensee's Response to 'Intervenors' Motion for Reconsideration . . . ." Filed on April 1, 1991," April 8, 1991.

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you resubmit your application in its entirety. . .  
. Enclosed find Draft Regulatory Guide 10.5 (Rev. 2) which further describes the information you need to provide in your application. [Emphasis added.]

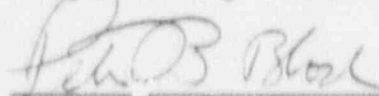
The Staff letter, which covers many areas, including decommissioning and radiological emergency planning, appears to anticipate requiring compliance with regulation revisions that became effective April 7, 1990 and that I have ruled are not applicable in this case. Memorandum and Order (Pending Motions, Including Those Related to Possession of "1"PU), LBP-90-45, 32 NRC 449 (1990) at 455-56; Memorandum and Order (Admitting Parties and Deferring Action on a Stay)(unpublished, August 28, 1990) at p. 5.

I request the Staff to tell me as soon as reasonably practicable, but no later than April 19, 1991, whether it intends to apply the decommissioning and radiological emergency planning provisions to the underlying byproduct materials license. If so, I am likely to consider that its request for information changes the complexion of this proceeding. If an emergency plan must be filed for the broad scope license, then it seems to follow that a subsequent amendment to that license must comply with that emergency planning requirement, with respect to the activities covered by the amendment.

Should the Staff confirm that I am correct in interpreting its letter as a determination -- pursuant to 10 CFR § 30.34(e) or some other authority (and I request that the

Staff provide citation to appropriate authority for its action) -- then the regulatory revisions are now applicable to the application that will be resubmitted in its entirety. In that event, I plan to resolve expeditiously all other issues in the case but to leave these affected areas open for later resolution, prior to taking final action on the license amendment.

Respectfully ORDERED,



Peter B. Bloch, Administrative Judge  
Presiding Officer

Bethesda, Maryland

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of

THE UNIVERSITY OF MISSOURI

Docket No. (s) 70-270/30-2278-MLA

Special Nuclear Materials Lic. 247  
Byproduct Mat. Lic. 24-00513-32)

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LBP-91-11 M&O (QUESTION ...) 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.

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Socket No. (s)70-270/30-2278-MLA  
LBP-91-11 M&O (QUESTION ...)

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U.S. Nuclear Regulatory Commission  
Region III  
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Dated at Rockville, Md. this  
10 day of April 1991

*Patty Henderson*  
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Office of the Secretary of the Commission