

RAS 2368

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED 11/13/00

SERVED 11/13/00

ATOMIC SAFETY AND LICENSING BOARD PANEL

Before Administrative Judges:

Ann Marshall Young, Presiding Officer
Thomas D. Murphy, Special Assistant

In the Matter of

GRAYSTAR, INC.

(Suite 103, 200 Valley Road,
Mt. Arlington, NJ 07856)

Docket No. SSD 99-27

ASLBP No. 00-778-06-ML

November 13, 2000

ORDER

(Confirming Matters Addressed at November 8, 2000, Telephone Conference)

1. On November 8, 2000, a telephone status conference was held in the above-captioned case, in which GrayStar, Inc. (GrayStar) challenges the NRC staff's May 24, 2000, denial of its application to register its Model GS-42 sealed source for its Model 1 irradiator. During the conference GrayStar's Request for Further Proceedings was considered, and the Presiding Officer discussed the issues in the case with the parties, with a view toward a more effective resolution of the case, including (as previously suggested) the possibility of further communication between the parties on various matters at issue in the case.

2. The Presiding Officer informed the parties of her strong inclination to rule in favor of the Staff on the issue of the applicability of 10 C.F.R. Part 36 to GrayStar's application, and of certain concerns relating to the issues of what would constitute adequate justification for the use of cesium chloride as the source for GrayStar's irradiator and whether adequate testing has been done by GrayStar in some areas.

3. After hearing the parties' discussion and argument on the issues and various further possible proceedings in the case, the Presiding Officer ruled that GrayStar may file a single reply to the Staff's October 30 response brief, as requested, to be filed and e-mailed to the

service list no later than November 15, 2000; and the Staff may respond to GrayStar's reply, by filing and e-mailing the same no later than November 22, 2000. In addition, GrayStar will provide photographs and/or clear diagrams of its irradiator with its reply; and, on GrayStar's request, it will also provide to counsel for the Staff and to the Presiding Officer, a videotape showing the irradiator. Staff Counsel will make any objections to the viewing or consideration of the videotape by the Presiding Officer in its November 22 response, and the Presiding Officer will not view the videotape until after consideration of Staff Counsel's objections.

4. After considering the parties' additional filings, the Presiding Officer may submit written questions to the parties, and will decide whether any additional further proceedings are warranted in the case, including GrayStar's request for a hearing at the NRC to demonstrate a three-dimensional model of its Model 1 irradiator and sample GS-42 sealed sources.

It is so ORDERED.

BY THE PRESIDING OFFICER¹

/RA/

Ann Marshall Young
ADMINISTRATIVE JUDGE

Rockville, Maryland
November 13, 2000

¹Copies of this Order were sent this date by Internet e-mail transmission to all participants or counsel for participants.

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB ORDER (CONFIRMING MATTERS ADDRESSED AT NOVEMBER 8, 2000, TELEPHONE CONFERENCE) have been served upon the following persons by U.S. mail, first class, or through NRC internal distribution.

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LB ORDER (CONFIRMING MATTERS
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[Original signed by Evangeline S. Ngbea]

Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 13th day of November 2000