

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

COMMISSIONERS:

Shirley Ann Jackson, Chairman
Greta J. Dicus
Nils J. Diaz
Edward McGaffigan, Jr.
Jeffrey S. Merrifield

_____)	Docket No. 11005070
In the Matter of)	
TRANSNUCLEAR, INC.)	
(Export of 93.3% Enriched Uranium))	License No. XSNM-03060
_____)	

CLI-99-15
MEMORANDUM AND ORDER

On October 29, 1998, Transnuclear, Inc. filed an application with the Commission seeking authorization to export over a five-year period 130.65 kilograms of high-enriched uranium in the form of fabricated UO2 targets. These targets will be used for the production by MDS Nordion of medical isotopes in the Maple 1 and 2 reactors currently under construction by Atomic Energy of Canada Limited's Chalk River Nuclear Laboratories. On December 30, 1998, the Nuclear Control Institute (NCI) filed a petition for leave to intervene and a request for hearing on the application. NCI is a nonprofit, educational corporation which disseminates information to the public concerning the proliferation, safety and environmental risks associated with the use of weapons-useable nuclear materials, equipment, and technology.

On March 5, 1999, the Department of State provided the Commission with Executive Branch views on the merits of the application. The Executive Branch concluded that the application satisfied the applicable export licensing criteria and requested that the Commission issue the license. After receiving these views and evaluating the pleadings filed in this proceeding, and without ruling on the intervention petition and hearing request, we posed written questions to the participants. Transnuclear, Inc. (Export of 93.3% Enriched Uranium), CLI-99-09, ___ NRC ___ (Apr. 8, 1999).

In this Order we address the intervention petition and hearing request. We have concluded that petitioner NCI lacks standing to intervene in this proceeding as a matter of right. The Commission has previously held that NCI does not meet the judicial standing tests which we apply in export licensing proceedings. Transnuclear, Inc. (Export of 93.3% Enriched Uranium), CLI-98-10, 47 NRC 333, 336 (1998), citing Transnuclear, Inc. (Export of 93.15% Enriched Uranium), CLI-94-1, 39 NRC 1, 4-6 (1994). In those decisions, the Commission held that NCI's institutional interest in providing information to the public and the generalized interest of its membership in minimizing danger from proliferation are insufficient to confer standing under section 189a. of the Atomic Energy Act. NCI itself has conceded that it is unable to meet the Commission's criteria for intervention as of right.⁽¹⁾ Therefore, we deny NCI's petition for intervention and request for a hearing under section 189a.

The Commission has further considered whether to order a discretionary hearing in this proceeding. In view of the numerous pleadings filed by the parties, and the additional submissions filed in response to CLI-99-09, we find that a hearing utilizing the procedures set forth in 10 C.F.R. Part 110, Subparts H and I is not necessary to provide the Commission with the information it needs to make its statutory findings. Furthermore, a discretionary hearing would impose unnecessary burdens on the participants. Consequently, we hold that a discretionary hearing is not warranted in this case. The Commission has concluded, however, that a public meeting, which would provide an opportunity for the applicant and other interested participants to summarize their positions and respond to any follow up questions the Commission might have on responses to CLI 99-09, would assist the Commission in reaching a decision in this matter. To that end, we invite the applicant, Transnuclear, Inc., NCI, and the Executive Branch to attend a Commission meeting on Wednesday, June 16, 1999, from 9:00 a.m. to 11:30 a.m. in the Commissioners' Meeting Room at NRC Headquarters, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

The Commission requests presentations from Transnuclear, Inc., NCI, and the Executive Branch expressing their respective views on the application and whether the statutory requirements for issuance of this export license have been met. In addition, the Commission requests that a knowledgeable official from the Argonne National Laboratory be present at the meeting, as a part of the Executive Branch contingent, to answer any questions the Commission may pose. Presentations will be made in the order listed, and each participant shall be allotted thirty minutes. No other presentations will be permitted; however, the Commission will accept, prior to June 16, 1999, written submissions from any individual or group not listed above. Only the Commission

may pose questions to the presenters during the meeting. The Secretary of the Commission will notify the participants if the Commission desires that particular issues be addressed in the presentations.

We request that each participant provide the name(s) of its presenter(s) to the Secretary of the Commission by Friday, June 11, 1999.

It is so ORDERED.

For the Commission

ANNETTE VIETTI-COOK
Secretary of the Commission

Dated at Rockville, Maryland
this ___ day of April, 1999.

1. See Reply of Petitioner Nuclear Control Institute to the Opposition of Transnuclear, Inc. and Atomic Energy of Canada, Ltd. to the Petition for Leave to Intervene and Request for a Hearing, Feb. 12, 1999, at 3.