

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED 03/30/2000

COMMISSIONERS:

SERVED 03/30/2000

Richard A. Meserve, Chairman
Greta Joy Dicus
Nils J. Diaz
Edward McGaffigan, Jr.
Jeffrey S. Merrifield

In the Matter of)
)
INTERNATIONAL URANIUM (USA))
CORPORATION)
)
(Request for Materials License)
Amendment))
_____)

Docket Nos. 40-8681-MLA-5
40-8681-MLA-6

CLI-00-04

ORDER

The Commission last year placed in abeyance two appeals filed by Envirocare of Utah, Inc. ("Envirocare"). Envirocare appealed its dismissal from two separate Subpart L proceedings, both involving license amendment requests made by the International Uranium (USA) Corporation ("IUSA"). See LBP-99-11, 49 NRC 153 (1999); LBP-99-20, 49 NRC 429 (1999). In both proceedings, the Presiding Officer found that Envirocare's asserted "competitor" injury was insufficient as a ground for standing to intervene in our adjudicatory proceedings.

The Commission already had affirmed Envirocare's dismissal on the same ground from two other license amendment proceedings. See Quivira Mining Co. (Ambrosia Lake Facility, Grants, New Mexico), CLI-98-11, 48 NRC 1 (1998); International Uranium (USA) Corp. (Receipt of Material from Tonawanda, New York), CLI-98-23, 48 NRC 259 (1998). Envirocare, however, sought judicial review in the District of Columbia Circuit of the Commission's decisions in Quivira and IUSA. In the interest of avoiding repetitious pleadings by Envirocare, IUSA, and the NRC staff, the Commission placed Envirocare's current appeals in abeyance, pending the outcome of Envirocare's petition for review in the D.C. Circuit.

On October 22, 1999, the court of appeals upheld Quivira and IUSA and thus found reasonable the NRC's interpretation of the Atomic Energy Act to preclude intervention by a competitor alleging only economic injury. Envirocare of Utah, Inc. v. NRC, 194 F.3d 72 (D.C. Cir. 1999). That decision resolves the current Envirocare appeals. As we held in Quivira and IUSA, Envirocare's competitor injury is by itself insufficient for standing under the AEA. Accordingly, the Presiding Officer's decisions in LBP-99-11 and LBP-99-20 are hereby affirmed.

Envirocare was the only challenger of the license amendment at issue in the above-referenced MLA-6 proceeding. Accordingly, that proceeding is hereby terminated. The state of Utah remains a party in the MLA-5 proceeding.

IT IS SO ORDERED.

For the Commission

[original signed by]

Annette L. Vietti-Cook
Secretary of the Commission

Dated at Rockville, Maryland
this 30th day of March, 2000.