

21150

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DEC 15 1999
10:19

ATOMIC SAFETY AND LICENSING BOARD PANEL 00 JAN 19 10:19

Before Administrative Judges:
Alan S. Rosenthal, Presiding Officer
Dr. Richard F. Cole, Special Assistant

C
AEC

In the Matter of

CABOT PERFORMANCE MATERIALS,
Reading, Pennsylvania

:
:
:
:
:
:
:

Docket No. 40-9027-MLA

Re: Site Decommissioning Plan

LICENSEE'S FIFTH UNOPPOSED MOTION FOR
ADDITIONAL EXTENSION OF TIME
TO RESPOND TO REQUESTS FOR A HEARING OF
(1) REDEVELOPMENT AUTHORITY OF THE CITY OF READING
AND CITY OF READING
AND (2) JOBERT INC. AND METALS TRUCKING, INC.

On October 7, 1999 Cabot Performance Materials, the Licensee, moved that this proceeding be held in abeyance until January 15, 2000 to permit it to conduct further discussions with the Redevelopment Authority of the City of Reading (Redevelopment Authority), the City of Reading (City), and Jobert Inc. (Jobert) and Metals Trucking, Inc. (MTI) (Requestors) to resolve their concerns about the Site Decommissioning Plan. In a Memorandum and Order dated October 15, 1999 the Presiding Officer granted Licensee's Motion.

In that Memorandum and Order, the Presiding Officer stated that he expects the parties to make every effort to complete settlement negotiations prior to January 15, but that if it should prove necessary to file another extension request, the Motion should "state with particularity the then

D503

current state of both the information gathering endeavor and the settlement negotiations and should additionally provide an anticipated completion date.” Memorandum and Order at p. 2-3.

As of this date, the parties have not yet reached a settlement in this matter, primarily due to the desire to collect additional information relating to site conditions. All of the parties believe that there is a good opportunity for this matter to be settled amicably upon completion of those efforts. Accordingly, Licensee hereby requests an additional extension of time for submission of its Answers as discussed below.

I. Status of the Information Gathering Efforts

Considerable progress has been made to gather relevant information about the site, but those efforts are not complete. The City and the Redevelopment Authority have now completed and reviewed the results of their Phase I environmental investigation of the site, and have concluded that the results of that investigation warrant the conduct of a more detailed Phase II environmental investigation, including collection of onsite samples. Licensee is advised that the Phase II investigation will be promptly commissioned and that the Redevelopment Authority intends to submit a work plan for Pennsylvania Department of Environmental Protection (DEP) review within the next several weeks. Licensee understands that under Pennsylvania statutes, the DEP may take up to 60 days to review the work plan. It is the intention of the Redevelopment Authority and the City to promptly commence investigation and sampling activities upon receipt of DEP approval. Given the anticipated length of the investigation and sampling activities, the parties anticipate that the results should be available by about the end of May.

In addition, Licensee has been engaged in a number of activities to further characterize the site and to expand the scope of the dose assessments performed to date. In particular, Licensee has:

- Characterized an additional area of licensed material adjacent to the Reading property that is the subject of the Site Decommissioning Plan in an area subject to a right-of-way (ROW) held by the City;
- Undertaken a dose assessment to estimate the doses from licensed material in the ROW;
- Met with the NRC Staff and agreed, at the Staff's request, to model a "resident gardener" scenario;
- Committed to submit the results of the ROW and resident gardener modelling to the NRC by mid-February; and
- Fenced the area of the ROW containing licensed material to further control access to that area.

Licensee anticipates that the ROW and resident gardener modelling results, when submitted to the NRC and made available to the other parties, will help facilitate settlement of this matter.

II. Status of the Settlement Negotiations

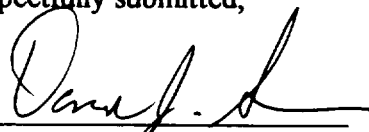
The parties met on January 10 to discuss the status of the information gathering effort and possible settlement of this matter. Representatives of the Redevelopment Authority, the City, Jobert, MTI and the Licensee were all in attendance. The discussions were productive and it was the sense of all concerned that there is a good opportunity for settlement. All agreed, however, that additional time is needed to: (1) receive the results of Licensee's additional modelling efforts; (2) permit the Redevelopment Authority and the City to perform their Phase II environmental investigation; and (3) after receipt of the Phase II results, provide sufficient time for agreement on specific terms and conditions of settlement. Given the schedule for the completion of the Phase II investigation, the parties believe that an extension until July 1, 2000 is necessary.

Accordingly, Licensee is hereby requesting a further extension of time until July 1, 2000 for its Answers to the Requests for Hearing. Counsel for all of the Requestors have indicated that they do not object to this Motion.

This agreement does not affect the NRC Staff's ability to proceed with its normal process of considering Licensee's application. Counsel for the NRC Staff have indicated that the Staff does not object to this Motion provided that the Staff's time for filing its Answers is extended until 10 days after Licensee's Answer is due, and provided that the Staff's normal process for consideration of and action on the Licensee's application is not limited by the granting of this Motion.

Accordingly, in order to allow for the additional collection of the site-related information and to facilitate settlement in this case, Licensee hereby moves that this proceeding be held in abeyance, and for a further extension of the time for submission of its Answers, until July 1, 2000.

Respectfully submitted,



Alvin H. Guttfman
Donald J. Silverman
Morgan, Lewis & Bockius LLP
1800 M St., NW
Washington, DC 20036
(202) 467-7502

Paul C. Nightingale
Counsel
Cabot Corporation
175 State St.
Boston, MA 02109

Dated: January 12, 2000

Attorneys for Cabot Performance Materials

DOCKET NO. 40-9027-MLA
JAN 19 2000

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

ATOMIC SAFETY AND LICENSING BOARD PANEL

Before Administrative Judges:
Alan S. Rosenthal, Presiding Officer
Dr. Richard F. Cole, Special Assistant

In the Matter of

**CABOT PERFORMANCE MATERIALS,
Reading, Pennsylvania**

:
:
:
:
:
:
:

Docket No. 40-9027-MLA

Re: Site Decommissioning Plan

CERTIFICATE OF SERVICE

I hereby certify that on this date copies of **LICENSEE'S FIFTH UNOPPOSED MOTION FOR ADDITIONAL EXTENSION OF TIME TO RESPOND TO REQUESTS FOR A HEARING OF (1) REDEVELOPMENT AUTHORITY OF THE CITY OF READING AND CITY OF READING AND (2) JOBERT INC. AND METALS TRUCKING, INC.** was served upon the following persons by facsimile and deposit in the United States mail, first class, postage prepaid and properly addressed:

Office of the Secretary
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
ATTN: Rulemaking and Adjudication Staff
Fax #: 301-415-1100

Carl J. Engleman, Jr., Esq.
Ryan, Russell, Ogden & Seltzer, LLP
1100 Berkshire Blvd.
Suite 301
Reading, PA 19610-1221

Office of Nuclear Material Safety and
Safeguards
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
Attn: Timothy E. Harris
Fax #: 301-415-5398

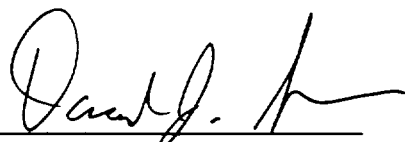
Keith Mooney, Esq.
City of Reading
Department of Law
City Hall, Room 2-54
815 Washington St.
Reading, PA 19601-3690
Fax #: 610-655-6427

Jonathan E. Rinde, Esq.
Manko, Gold & Katcher, LLP
401 City Avenue, Suite 500
Bala Cynwyd, PA 19004
Fax #: 610-660-5711

Judge Richard F. Cole
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
FAX#: 301-415-5599

Giovanna M. Longo, Esq.
Office of the General Counsel
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
Fax #: 301-415-3725

Judge Alan S. Rosenthal
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
Fax #: 301-415-5599



Donald J. Silverman
Morgan, Lewis & Bockius LLP
1800 M St., NW
Washington, DC 20036
(202) 467-7468

Attorney for Cabot Performance Materials

Dated: January 12, 2000