

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

DOCKETED 04/04/00

In the Matter of

CABOT PERFORMANCE MATERIALS
(Reading, Pennsylvania)

Docket No. 40-9027-MLA

ASLBP No. 99-757-01-MLA

April 4, 2000

SERVED 04/04/00

MEMORANDUM AND ORDER

(Granting Leave to Respond to Licensee's Answer)

Before me are two hearing requests in connection with the application of Cabot Performance Materials (Licensee) for an amendment to its source materials license to enable the decommissioning of its site in Reading, Pennsylvania, that now possesses contaminated material resulting from the processing of ores containing uranium and thorium. One of those requests was filed on November 24, 1998, by the Redevelopment Authority of the City of Reading and the City of Reading. The other was submitted on December 10, 1998 (under an extension of time previously granted by the Secretary of the Commission) by Jobert, Inc. (Jobert) and Metals Trucking, Inc. (MTI).

On the basis of its representation that settlement negotiations were in progress, the time for the filing of the Licensee's answer to the hearing requests was several times

extended. On March 31, 2000, three days before the then most recent extension was to expire, the Licensee moved for a still further extension to and including May 30, 2000. That motion was, however, confined to the matter of the timing of its answer to the hearing request filed by the two Reading entities. It was based upon the averment that a full settlement with those parties is in the offing but additional time is necessary to consummate it. In an order entered on April 3, 2000, I granted that motion.

Apparently, settlement negotiations with the other two hearing requesters have not been as successful. Accordingly, on April 3, 2000, the Licensee filed an answer to their joint request in which it insisted that the request must be denied. According to the Licensee, neither Jobert nor MTI has satisfied the requirement in the Commission's Rules of Practice that they both (1) specify one or more areas of concern germane to the subject matter of the proceeding; and (2) establish their standing to seek a hearing. See 10 C.F.R. § 2.1205(e), (h).

Before acting on the Jobert/MTI hearing request, however, I will provide those requesters with a brief opportunity to respond to the Licensee's answer. The response may include a supplementation of the request, a privilege I recently extended to a hearing requester in another proceeding whose initial showing on the question of standing was found wanting. See February 24, 2000 order (unpublished), referred to in U.S. Army (Jefferson Proving Ground Site), LBP-00-09, 51 NRC __,

___ (slip op. at 1) (March 23, 2000). The response, with or without supplementation, must be filed and served on or before Friday, April 14, 2000. If, upon receipt of the response, it appears that a further filing by the Licensee is called for, a date for its submission will be promptly established.

It is so ORDERED.

BY THE PRESIDING OFFICER*

/RA/

Alan S. Rosenthal
ADMINISTRATIVE JUDGE

Rockville, Maryland

April 4, 2000

* Copies of this memorandum and order were sent this date by Internet e-mail transmission to representatives of the Licensee and the Petitioners, as well as counsel for the NRC Staff.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)	
)	
CABOT PERFORMANCE MATERIALS)	Docket No. 40-9027-MLA
)	
(Request for Materials License)	
Amendment))	

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB MEMORANDUM AND ORDER (GRANTING LEAVE TO RESPOND TO LICENSEE'S ANSWER) 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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Docket No. 40-9027-MLA
LB MEMORANDUM AND ORDER
(GRANTING LEAVE TO RESPOND
TO LICENSEE'S ANSWER)

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[Original signed by Adria T. Byrdsong]

Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 4th day of April 2000