

RAS 10815

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD

DOCKETED 12/08/05

SERVED 12/08/05

Before Administrative Judges:

Thomas S. Moore, Chairman
Dr. Paul B. Abramson
Dr. Anthony J. Baratta

In the Matter of

PA'INA HAWAII, LLC

(Honolulu, Hawaii Irradiator Facility)

Docket No. 30-36974-ML

ASLBP No. 06-843-01-ML

December 8, 2005

ORDER

In a November 21, 2005 order, we indicated that we would subsequently issue a protective order covering the portions of the irradiator application of Pa'ina Hawaii, LLC (Applicant) redacted by the NRC Staff and set a schedule for the Petitioner, Concerned Citizens of Honolulu, to file its reply. The order also indicated that, because portions of the answers of the Applicant and the Staff dealing with the Petitioner's standing and environmental contentions did not appear to involve any information redacted from the irradiator application, we could move ahead on those matters and the Petitioner should file its reply dealing with the issues of its standing and environmental contentions by December 1, 2005. The Petitioner timely filed a reply.

Instead of responding to the answers of the Applicant and the Staff with respect to its standing and environmental contentions, however, the Petitioner's reply appears to address all its contentions, not just its environmental contentions. By doing so, it appears that the Petitioner has abandoned its claim that it needs the information redacted from the irradiator application in order to address adequately the answers of the Applicant and the Staff

addressing Petitioner's safety contentions.

Although it no longer appears necessary, we are today issuing a protective order and accompanying confidentiality and non-disclosure agreement in order to save time should the information redacted from the Applicant's irradiator application again become relevant in this proceeding. The Staff shall not provide to the Petitioner any protected information covered by the protective order without our further express order. In the event we have misapprehended the Petitioner's December 1, 2005 reply, the Petitioner may seek appropriate relief.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

Thomas S. Moore, Chairman****

Rockville, Maryland
December 8, 2005

**** Copies of this order were sent this date by Internet e-mail transmission to counsel for the (1) Applicant; (2) Petitioner; and (3) Staff.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
PA'INA HAWAII, LLC) Docket No. 30-36974-ML
)
)
(Honolulu, Hawaii Irradiator Facility))

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB ORDER have been served upon the following persons by U.S. mail, first class, or through NRC internal distribution.

Office of Commission Appellate
Adjudication
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Administrative Judge
Thomas S. Moore, Chair
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Administrative Judge
Paul B. Abramson
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Administrative Judge
Anthony J. Baratta
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Bradley W. Jones, Esq.
Steven Hamrich, Esq.
Margaret J. Bupp, Esq.
Office of the General Counsel
Mail Stop - O-15 D21
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

David L. Henkin, Esq.
Earthjustice
223 South King Street, Suite 400
Honolulu, HI 96813-4501

Michael Kohn, President
Pa'ina Hawaii, LLC
P.O. Box 30542
Honolulu, HI 96820

[Original signed by Evangeline S. Ngbea]

Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 8th day of December 2005