

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED 01/20/06

ATOMIC SAFETY AND LICENSING BOARD **SERVED 01/20/06**

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

January 20, 2006

ORDER

In accordance with the procedures and schedule outlined in our order of December 22, 2005, the NRC Staff provided counsel for the Petitioner, Concerned Citizens of Honolulu, the information redacted pursuant to 10 C.F.R. § 2.390 from the irradiator application of the Applicant, Pa'ina Hawaii, LLC. That information is subject to the terms of our earlier December 8, 2005 protective order. Thereafter, on January 6, 2006, the Staff filed a brief description of each identified segment of SGI-M redacted from the application so that the Petitioner could determine whether such information was necessary for it to file a complete supplemental reply to the earlier filed answers of the Staff and the Applicant.¹ Instead of filing a detailed specific explanation why such redacted information was necessary for it to file a complete supplemental reply as directed in our December 22, 2005 order, the Petitioner, in its January 11, 2006 response, complains that the Staff is "extremely vague" in describing the redacted material thereby "making it impossible for Concerned Citizens to evaluate whether the information is

¹ See NRC Response to Board Order of December 22, 2005 (Jan. 6, 2006).

relevant to its contentions, and, thus, possibly needed to file a complete supplemental reply.”² In response, the Staff asserts that providing greater detail of the redacted SGI-M information would reveal the protected information.³ Further, the Staff states that all the redacted information is related to security matters and hence it is not relevant to any of the Petitioner’s proffered contentions.⁴

Contrary to the Petitioner’s claim, we do not find the Staff’s description of each segment of redacted information in the application unnecessarily vague. Rather, we find that the Staff’s description of the deleted material is adequate to permit a reasonable determination whether the redacted information is necessary for the Petitioner to file a complete supplemental reply. Moreover, as the Staff descriptions make clear, all of the redacted material directly relates to security measures, a matter which is not directly relevant to the Petitioner’s proffered contentions. Accordingly, the Staff shall not make available to the Petitioner’s counsel and expert any of the redacted material characterized as SGI-M.

The Petitioner shall file any supplement to its reply employing the material redacted

² Petitioner’s Response to Board Order of December 22, 2005 (Jan. 11, 2006) at 1.

³ See NRC Staff Response to Petitioner’s Response to Board Order of December 22, 2005 (Jan. 17, 2006) at 1.

⁴ See id. at 2.

pursuant to 10 C.F.R. § 2.390 by January 26, 2006.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD*

/RA/

Thomas S. Moore, Chairman

Rockville, Maryland
January 20, 2006

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

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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.

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[Original signed by R. L. Giitter]

Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 20th day of January 2006