

RAS 11962

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED 07/12/06

SERVED 07/12/06

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

Alan S. Rosenthal, Chairman
Dr. Paul B. Abramson
Dr. Richard F. Cole

In the Matter of

U.S. ARMY

(Jefferson Proving Ground Site)

Docket No. 40-8838-MLA

ASLBP No. 00-776-04-MLA

July 12, 2006

ORDER

(Denying Motion of Save the Valley, Inc. to Further Supplement Contentions)

On June 30, Save the Valley, Inc. (Intervenor) filed a motion with this Board seeking leave to supplement within sixty days contentions it previously filed on May 31. The basis for Intervenor's motion is that three new sources of information recently became available, which it maintains materially impacts the understanding of the condition of the Jefferson Proving Ground (JPG) site and raises additional issues related to the depleted uranium currently amassed thereon. The Department of the Army (Licensee) and the NRC Staff each timely filed responses in opposition to the motion. The motion is denied.

The Board fully expects that, given the nature of the Licensee's request for five additional years to characterize the JPG site, new information will frequently surface as a result of either a Licensee filing with the Staff or the publication of scientific research related to such characterization. That being so, in conformity with the Commission's Rules of Practice, Intervenor has two options.

First, if it believes that there is new information providing a basis for submitting a new contention, it may file a motion seeking leave to do so. Any such motion, however, must include the new contention sought to be admitted, as well as a demonstration that the new

contention comports with the requirements of 10 C.F.R. § 2.309(f)(2) for submission of new or amended contentions, and the contention admissibility requirements imposed by 10 C.F.R. § 2.309(f)(1). The motion before us attempts to bypass these required showings. This the Intervenor may not do.

Alternatively, the Intervenor might simply endeavor to use newly discovered information as additional support for an already admitted contention. In that regard, Intervenor will be free to offer such information – whether derived from a filing by the Licensee or from a recently published scientific study – at the evidentiary hearing. It would then be evaluated by the Board for probative value in conjunction with all other evidence submitted.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD¹

/RA/

Alan S. Rosenthal, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
July 12, 2006

¹ Copies of this Order were sent this date by Internet electronic mail transmission to the counsel for the parties.

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB ORDER (DENYING MOTION OF SAVE THE VALLEY, INC. TO FURTHER SUPPLEMENT CONTENTIONS) have been served upon the following persons by U.S. mail, first class, or through internal NRC distribution.

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[Original signed by Evangeline S. Ngbea]

Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 12th day of July 2006