



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

September 4, 2007

OFFICE OF THE
GENERAL COUNSEL

Thomas S. Moore
Administrative Judge
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Anthony J. Baratta
Administrative Judge
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Paul Abramson
Administrative Judge
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

In the Matter of
PA'INA HAWAII, LLC
(Honolulu, Hawaii Irradiator Facility)
Docket No. 30-36974-ML; ASLBP No. 06-843-01-ML

Dear Administrative Judges:

Pursuant to 10 C.F.R. §§ 2.336 and 2.1203, enclosed please find an update to the Staff's hearing file index in the above-captioned proceeding, along with an affidavit dated August 24, 2007, from Jack E. Whitten, Chief, Nuclear Materials Licensing Branch, Division of Nuclear Materials Safety, Region IV; and an affidavit dated September 4, 2007, from Scott Flanders, Deputy Director, Division of Waste Management and Environmental Protection, Office of Federal and State Material and Environmental Management Programs, attesting to the pre-decisional nature of some of the documents included in this update. This update encompasses documents related to the Staff's recent issuance of a license to Pa'ina Hawaii, LLC and the recently-issued Final Environmental Assessment.

Sincerely,

A handwritten signature in cursive script, reading "Michael J. Clark".

Michael J. Clark
Counsel for the NRC Staff

Enclosures: As stated

Judge Moore
Judge Abramson
Judge Baratta

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09/04/2007

cc w/encls: David L. Henkin
Fred Paul Benco
Jered Lindsay

Michael Kohn
Office of the Secretary

Office of Commission
Appellate Adjudication

Pa'ina Hawaii, LLC
Docket No. 30-36974; ASLBP No. 06-843-01
Hearing File Index Update 09/04/2007
Pre-Decisional Documents

Privilege	ADAMS ML Number	Full Name	Date
Pre-Decisional	ML072350629	E-Mail from S. Helton to M. Blevins, Subj: Re: Fwd: final Pa'ina EA and comment response document	07/26/07
Pre-Decisional	ML072350584	E-Mail from M. Blevins to F. Sturz, Subj: Re: Fwd: final Pa'ina EA and comment response document (3)	07/26/07
Pre-Decisional	ML072350599	E-Mail from M. Blevins to F. Sturz, Subj: Re: Fwd: final Pa'ina EA and comment response document (1)	07/26/07
Pre-Decisional	ML072350624	E-Mail from M. Blevins to F. Sturz, Subj: Re: Fwd: final Pa'ina EA and comment response document (2)	07/26/07
Pre-Decisional	ML072350620	E-Mail from M. Blevins to M.Bupp, Subj: Re: Fwd: final Pa'ina EA and comment response document	07/25/07
Pre-Decisional	ML072350616	E-Mail from F. Sturz to M. Blevins, Subj: Re: Fwd: final Pa'ina EA and comment response document	07/25/07
Pre-Decisional	ML072350608	E-Mail from M. Blevins to F. Sturz, Subj: Re: Fwd: final Pa'ina EA and comment response document	07/25/07
Pre-Decisional	ML072350606	E-Mail from J. Hall to M. Blevins, Subj: Re: Fwd: final Pa'ina EA and comment response document	07/25/07

Pa'ina Hawaii, LLC
Docket No. 30-36974; ASLBP No. 06-843-01
Hearing File Index Update 09/04/2007

ADAMS ML Number	Full Name	Recipient	Author	Date
ML072260171	Pa'ina Hawaii, LLC Letter Re: New License	M. Kohn	J. Whitten	08/17/07
ML072260179	Pa'ina Hawaii, LLC License No. 53-29296-01 (Non-Public: Official Use Only, Security-Related Information)			08/17/07
ML072260186	Pa'ina Hawaii, LLC, Safety Review of the License Application			08/17/07
ML072320269	Pa'ina Hawaii, LLC License No. 53-29296-01 (Public Version of ML072260179)			08/17/07
ML071150121	Paina Hawaii, LLC Letter Re: Final Environmental Assessment for Pa'ina Hawaii Irradiator	M. Kohn	P. Swain	08/13/07
ML071210508	Pa'ina Hawaii, LLC Memorandum Re: Notice of Availability and Finding of No Significant Impact for Pa'ina Hawaii, LLC Proposed Irradiator in Honolulu, Hawaii	M. Lesar	P. Swain	08/13/07

Pa'ina Hawaii, LLC
Docket No. 30-36974; ASLBP No. 06-843-01
Hearing File Index Update 09/04/2007
Attorney-Client Privilege Documents

Privilege	ADAMS ML Number	Full Name	Date
Attorney-Client	ML072250391	Pa'ina Hawaii, LLC-OGC Comments on Draft Safety Evaluation Report	08/13/07

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)

PA'INA HAWAII, LLC)

Material License Application)

Docket No. 30-36974

ASLBP No. 06-843-01

AFFIDAVIT OF JACK E. WHITTEN

I, JACK E. WHITTEN, do hereby state as follows:

1. I am employed as the Chief, Nuclear Materials Licensing Branch, Division of Nuclear Materials and Safety, Region IV, overseeing the review of the Pa'ina Hawaii, LLC application for a license for possession and use of byproduct material in the Nuclear Regulatory Commission's Region IV office in Arlington, Texas.
2. I hereby certify that all relevant materials required to be disclosed pursuant to 10 C.F.R. § 2.336(b) and (d) in the above-captioned proceeding have been disclosed, and that the disclosures are accurate and complete as of the date of this certification.
3. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.



JACK E. WHITTEN

Executed in Arlington, TX
this 24th day of August, 2007

September 4, 2007

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	
PA'INA HAWAII, LLC)	Docket No. 30-36974
)	
Material License Application)	ASLBP No. 06-843-01

AFFIDAVIT OF SCOTT FLANDERS

I, Scott Flanders, do hereby state as follows:

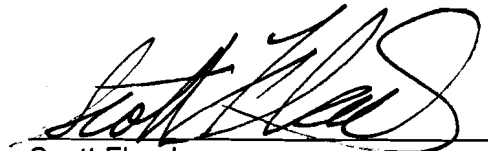
1. I am employed as the Deputy Director, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs, in the Nuclear Regulatory Commission. My supervisory responsibilities include oversight of the NRC Staff's preparation of the environmental assessment (EA) related to the Pa'ina Hawaii, LLC ("Pa'ina") application for possession and use of byproduct materials.
2. As part of their responsibilities in compiling and updating the Hearing File for this proceeding, NRC Staff members under my supervision identified certain documents as privileged because they contained information concerning the NRC's pre-decisional deliberative process. Those documents are listed in Enclosure 1 (Page 1) of the September 4, 2007, Hearing File Update in this proceeding.
3. I have personally reviewed each of the documents identified as privileged in Enclosure 1 to the September 4, 2007, Hearing File Update in this proceeding, and have determined, in accordance with the guidance contained in NRC Management Directive 3.4, that they contain pre-decisional information concerning the Staffs review of the Pa'ina application. All documents contain either the Staff's analyses, recommendations, opinions, or evaluations,

and may not necessarily reflect the final agency position with respect to the matters discussed therein. In addition, each of these documents comprises part of the deliberative process necessary to the Staff's review of the pending Pa'ina application.

4. Further, I have determined that disclosure of the documents identified in Enclosure 1 to the September 4, 2007, Hearing File Update could result in harm to the agency, in that it would (a) prematurely disclose the preliminary views of individual Staff members and/or the Staff prior to reaching a final agency decision, and could thus create confusion as to the actual policy or views of the NRC Staff; (b) hinder the efficiency of the Staff, in that forced disclosure of their internal discussions on an unresolved issue would serve to chill all future deliberations and would interfere with our ability to engage in a free exchange of opinions and analyses prior to publishing our final review documents; and (c) imply or suggest incorrectly that the opinions of the Staff members involved in these communications are actually the final decisions of the agency, while no such final decision has yet been made.

5. Accordingly, I have determined that the pre-decisional deliberative process privilege should be invoked with respect to each of the documents listed in Enclosure 1 to the Staff's September 4, 2007 Hearing File update in this proceeding.

6. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.



Scott Flanders

Executed in Rockville, MD
this 4th day of September, 2007