

August 28, 2007 (8:47am)

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSIONOFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of

U.S.ARMY

(Jefferson Proving Ground Site)

Docket No. 40-8838-MLA

ASLBP No. 00-776-04-MLA

August 27, 2007

**UNOPPOSED MOTION OF SAVE THE VALLEY, INC. TO EXTEND BY ONE (1) DAY
THE DATES FOR THE PREFILING OF ITS REPLY AND REBUTTAL TESTIMONY
AND ANY SUBSEQUENT SURREPLY AND SURREBUTTAL TESTIMONY**

Intervener Save the Valley, Inc.(STV), by counsel, respectfully moves to extend by one day the dates for the prefilng of replies and rebuttal testimony and surreplies and surrebuttal testimony. This would extend the date for the prefilng of STV's reply and rebuttal testimony from Monday, September 17, 2007, to Tuesday, September 18, 2007, the date for the prefilng of the Army's and the Staff's surreplies and surrebuttal testimony from Monday, September 24, 2007, to Tuesday, September 25, 2007, and the date for the prefilng of STV's surreply and surrebuttal testimony from Monday, October 1, 2007, to Tuesday, October 2, 2007. No other dates in the approved procedural schedule are proposed to be extended. Counsel for STV has been authorized to represent to the Board that neither the Army nor the Staff objects to this motion.

In support of its unopposed motion, STV would respectfully show the Board:

1. On January 16, 2007, the Board approved a stipulation among the Parties regarding the protocol for mandatory disclosures in this case. Included among the provisions of that protocol is the following:

(8) Supplemental disclosures required by 10 C.F.R. § 2.336(d) will be provided within thirty (30) days, rather than fourteen (14) days provided that any study, report, analysis, data compilation, or other information cited, referenced or otherwise relied upon in initial written statements of position, written testimony, written responses and rebuttal testimony shall be disclosed in its entirety no later than five (5) business days prior to the date the written statements and testimony are filed, if not already disclosed.

2. STV's review of the testimony filed by the Army on August 17, 2007, indicates that the Army has apparently not fully complied with the requirement in the approved disclosure protocol that any references cited in testimony which were not previously disclosed be disclosed not less than five (5) business days prior to the date of testimony being filed. As STV understands this provision, any such references should have been disclosed by the Army (as they were by the Staff) by August 10, 2007. Specifically, STV's review indicates that there are eight (8) references cited in the testimony of three different Army witnesses which were not previously disclosed by the Army:

3. STV's review also indicates that all of the other numerous references cited in the Army's testimony appear to have been identified in the Army's January 24 mandatory disclosures (specifically, in the detailed outline of anticipated testimony included in that document).

4. Because of the delay in the disclosure of the additional references, STV's preparation of the rebuttal testimony of the rebuttal testimony of both of the witnesses in STV's case-in-chief has also been delayed. However, STV does not consider this delayed disclosure to be an intentional or wholesale departure from the approved protocol on the part of the Army.

5. Accordingly, STV does not consider it to be appropriate to seek to have stricken from the record the Army testimony relying on the references the disclosure of which has been delayed by one week. Instead, STV would request as a remedy for the resulting prejudice to its preparation of its rebuttal testimony a one (1) day delay in the prefiling date for its reply and rebuttal testimony. To assure that this

delay does not prejudice the preparation of any subsequent surreplies and surrebuttal testimony by the Staff, the Army and STV, STV also requests that the prefiling dates for those submissions also be adjusted by one (1) day.

6. Specifically, STV proposes to change the prefiling schedule as follows:

STV Reply/Rebuttal, from Monday, 9/17 to Tuesday, 9/18;

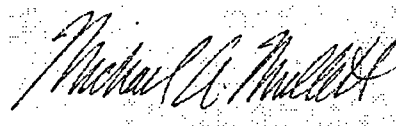
Staff/Army Surreply/Surrebuttal, Monday, 9/24 to Tuesday, 9/25; and

STV Surreply/Surrebuttal, from Monday, October 1 to Tuesday, October 2.

7. Counsel for STV has been authorized to represent to the Board by counsel for the Army and the Staff that neither objects to this requested change in the procedural schedule.

WHEREFORE, STV respectfully moves that the date for the prefiling of its reply and rebuttal testimony be extended from September 17 to September 18, 2007, the date for the prefiling of any Army or Staff surreply and surrebuttal testimony be extended from September 24 to September 25, 2007, and the date for the filing of any STV surreply and surrebuttal testimony be extended from October 1 to October 2, 2007, without any further change in the procedural schedule in this matter.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael A. Mullett", is written over a faint, dotted rectangular background.

Michael A. Mullett, Senior Counsel
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Attorney for Save the Valley, Inc.

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

_____)	
In the Matter of)	Docket No. 40-8838-MLA
)	
U.S.ARMY)	ASLBP No. 00-776-04-MLA
)	
(Jefferson Proving Ground Site))	August 27, 2007

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing "Unopposed Motion of Save the Valley, Inc., to Extend the the Time" have been served this 27th day of August, 2007, upon the following persons by electronic mail and by U.S. Mail, first class postage prepaid.

Administrative Judge Alan S. Rosenthal Chair,
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Mail Stop: T-3-F-23
Washington, D.C. 20555-0001

Administrative Judge Paul B. Abramson
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Mail Stop: T-3-F-23
Washington, D.C. 20555

Administrative Judge Richard F. Cole
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U.S. Nuclear Regulatory Commission
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Atomic Safety and Licensing Board
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Adjudicatory File
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Office of the Secretary
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U.S. Nuclear Regulatory Commission
Mail Stop: O-16-G-15
Washington, D.C. 20555-0001

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August 27, 2007

Secretary
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
ATTN: Rulemakings and Adjudications Staff

Re: Motion to Extend the Time of Intervener Save the Valley, Inc.

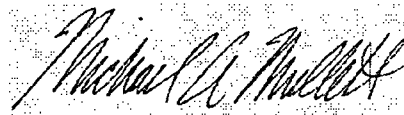
In the Matter of the U.S. Army (Jefferson Proving Ground Site), Docket No. 40-8838-MLA,
ASLBP 00-776-04-MLA

Dear Secretary:

Enclosed please find for filing in the above-referenced docket the original and two conformed copies of the above-referenced filing, along with the related Certificate of Service.

Thank you for your assistance in this matter.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael A. Mullett", is written over a light gray, textured rectangular background.

Michael A. Mullett
Attorney for Save the Valley, Inc.

cc: Service List – Docket No. 40-8838, ASLBP 00-776-04