



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001  
November 30, 1998

DOCKETED  
USNRC

'98 DEC -2 P1:30

MEMORANDUM TO: B. Paul Cotter, Jr.  
Chief Administrative Judge  
Atomic Safety and Licensing Board Panel

FROM: *John C. Hoyle*  
John C. Hoyle, Secretary

SUBJECT: REQUEST FOR HEARING OF THE REDEVELOPMENT  
AUTHORITY OF THE CITY OF READING AND THE  
CITY OF READING, PENNSYLVANIA

Attached is a hearing request of the Redevelopment Authority of the City of Reading and the City of Reading, Pennsylvania. The request was filed on November 24, 1998, in response to a notice of opportunity of hearing with respect to a license amendment request of Cabot Performance Materials (Cabot) (Docket No. 40-9027). The proposed amendment would allow decommissioning of Cabot's contaminated sites located in Reading and Revere, Pennsylvania. The notice was published in the Federal Register at 63 Fed. Reg. 57715 (October 28, 1998) (copy attached).

The request for hearing is being referred to you for appropriate action in accordance with 10 C.F.R. Sec. 2.1261.

Attachments: As stated

cc: Commission Legal Assistants  
OGC  
CAA  
OPA  
EDO  
NMSS  
Carl J. Engleman, Jr., Esquire  
Anthony T. Campitelli  
Cabot Performance Materials

19758

Secretary  
U.S. Nuclear Regulatory Commission  
Attention: Rulemaking and Adjudications Staff  
Washington, DC 20555-0001

DOCKETED  
USNRC

'98 NOV 27 P2:14

November 24, 1998  
Docket Number 40-9027

OFFICE OF THE SECRETARY  
U.S. NUCLEAR REGULATORY COMMISSION  
ADJUDICATIONS DIVISION

### **REQUEST FOR A HEARING**

The Redevelopment Authority of the City of Reading, Berks County, Pennsylvania, through their solicitors, Timothy G. Dietrich, Esquire, Carl J. Engleman Jr., Esquire, and Rhoda, Stoudt & Bradley, Esquires and the City of Reading, Berks County, Pennsylvania, through its solicitor Keith Mooney, Esquire hereby submit this request for a hearing pursuant to 10 C.F.R. § 2.1205. This request for a hearing is timely under 10 C.F.R. § 2.1205 (d). The Notice from the Nuclear Regulatory Commission was published in the Federal Register on Wednesday, October 28, 1998. 63 FR 57715. This request for a hearing has been made within the thirty day window as set forth in 10 C.F.R. § 2.1205 (d)(1).

### **Introduction**

1. Cabot Corporation has submitted a site Decommissioning Plan for a slag pile containing radioactive slag located on real estate commonly known as the "American Chain and Cable Property" in the City of Reading, County of Berks, Commonwealth of Pennsylvania.

2. The radioactive slag pile extends onto an unopened street known as "River Road" which borders the American Chain and Cable Property. An unopened street is an area for which a municipality holds a right of way for a street, but the street has not been constructed and is not open for use by the public. The City of Reading asserts title to such a right of way for River Road.

3. The Redevelopment Authority of the City of Reading, organized under the

Pennsylvania Urban Redevelopment Law, 35 P.S. § 1701 et. seq., is a municipal authority having the power of eminent domain. The American Chain and Cable Property is located in an area that has been designated as a blighted area by the Redevelopment Authority of the City of Reading (hereinafter referred to as the “Authority”). The Authority may seek to take title to the American Chain and Cable Property as part of an Urban Redevelopment Plan (“Plan”) which has been approved by the Authority and the City of Reading. Under this Plan, the Authority would acquire blighted residential, commercial and industrial properties, such as the American Chain and Cable Property, attempt to remediate contamination under Pennsylvania’s “brownfields” statute if needed, and resell these properties to viable entities in need of industrial properties.

4. The American Chain and Cable Property is also located in an area where the residents have low-incomes and/or are members of minority groups. Redevelopment of this area would bring highly desirable industrial jobs back to an area that has not been economically prosperous for many years. Redevelopment of this area would improve the quality of life for the area’s residents.

### **Specific Concerns**

#### **I. The River Road Right of Way Runs Through a Portion of the Radioactive Slag Pile.**

5. As previously stated, the slag pile extends onto the River Road right of way. If the City decides to construct and open River Road, the possibility exists that there could be a release of radioactive material.

6. Cabot Corporation’s own Radiological Assessment indicates that inhalation is the second greatest pathway for radiation exposure at this site. Inhalation would become increasingly important as an exposure pathway in a slag removal scenario. Constructing and opening River Road to public use may require extensive earth moving operations in and around the slag pile. Workers

and the public at large might be directly exposed to airborne residual radioactive material through earth moving operations.

7. An order entered by the Nuclear Regulatory Commission would have a direct effect on the City of Reading and the Authority. If the Nuclear Regulatory Commission were to allow the slag to remain in the City's River Road right of way, this might foreclose the possibility of obtaining necessary future access to other industrial areas of the City that could be, once again, placed into productive use.

**II. The Presence of the Radioactive Slag on the American Chain and Cable Property Will Lower Its Attractiveness to Industrial Buyers and Could Subject the Reading Redevelopment Authority to Financial Liability.**

8. The Authority may decide to take title to the American Chain and Cable Property through eminent domain proceedings in an effort to remediate the site under Pennsylvania's brownfields statute and subsequently redevelop and resell the property to an industrial developer.

9. The presence of the radioactive slag on the property would lower its attractiveness to an industrial buyer because there is always the possibility that a governmental agency such as the Nuclear Regulatory Commission, the United States Environmental Protection Agency, or the Pennsylvania Department of Environmental Protection could seek to hold a subsequent buyer of the property responsible for any future environmental issues arising from the slag pile.

10. If the Authority obtains and retains title to the land upon which the slag pile is located, the Authority would take the same risk of future governmental enforcement action in the event of any problems with the slag pile. Any action against the Authority would jeopardize the future viability of the Authority to reclaim blighted areas in the City of Reading and return them to a productive state.



WHEREFORE, as Solicitors for The Redevelopment Authority of the City of Reading and the City of Reading, we respectfully request a hearing in this matter.

RHODA, STOUT & BRADLEY

By: Carl J. Engleman Jr., Esq.  
Timothy G. Dietrich, Esquire  
Carl J. Engleman Jr., Esquire  
Solicitors for the Reading Redevelopment Authority  
Berks County, Pennsylvania  
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501 Washington Street, PO Box 877  
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By: Keith Mooney  
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United States Nuclear Regulatory Commission  
Docket Number 40-9027

DOCKETED  
USNRC

'98 NOV 27 P2:14

**CERTIFICATE OF SERVICE**

OFFICE OF PUBLIC AFFAIRS  
RULEMAKING AND ADJUDICATIONS  
DIVISION

I, Carl J. Engleman Jr., Esquire, do hereby certify that a true and correct copy of the Request for Hearing from the Redevelopment Authority of the City of Reading and the City of Reading was served upon the following by mailing the same by express mail, postage prepaid, on the 24th day of November, 1998:

Secretary  
United States Nuclear Regulatory Commission  
Attention: Rulemaking and Adjudications Staff  
Washington, DC 20555-0001

Executive Director for Operations,  
United States Nuclear Regulatory Commission  
Washington, DC 20555-0001

Cabot Performance Materials  
Attention: Mr. Anthony T. Campitelli  
P.O. Box 1608  
Boyertown, PA 19512

RHODA, STOUDT & BRADLEY

By: Carl J. Engleman Jr., Esq.  
Carl J. Engleman Jr., Esquire  
501 Washington Street, Box 877  
Reading, PA 19603-0877  
(610) 374-8293

Dated: November 24, 1998



the Commission, in accordance with the regulations. Storing the vessel on-site for 50 years before removal is similar to the SAFSTOR decommissioning alternative, which was addressed in NUREC-0586, "Final Generic Environmental Impact Statement on Decommissioning of Nuclear Facilities." On-site storage for 50 years is not consistent with the DECON decommissioning alternative that was selected by PGE and approved by NRC. The DECON decommissioning alternative has also been accepted and approved by the State of Oregon for the decommissioning of the Trojan Nuclear Plant. On-site storage of the reactor vessel would result in retaining the part 50 license and necessary staff to maintain radiological controls and other part 50 required programs. Other results include, but are not limited to, performance of required periodic surveys, increased exposure to workers, and increased cost. Although radioactive decay would reduce shielding requirements, the reactor vessel would still have to be disposed of using one of the alternatives described below. Since insignificant gain would be realized, this scenario was not evaluated further.

#### **B. Modified Reactor Vessel and Internals Removal (Modified TRVP)**

Disposal of the reactor vessel in one piece with only the non-greater than Class C (non-GTCC) internals left inside. The TRVP, with all internals included, is classified as Class C waste. Certain internals, if removed from the TRVP, would likely be classified as GTCC waste. The GTCC internals would have to be segmented underwater, placed into containers, and stored in the spent fuel pool or the independent spent fuel storage installation (ISFSI) at the Trojan Site. The vessel and remaining internals would be shipped via barge in a single package similar to the TRVP alternative. Depending on the package shipped, NRC and/or DOT exemptions might still be required. The GTCC internals would be shipped at an unknown date in the future when a suitable repository becomes available to accept the waste.

#### **C. Separate Disposal**

Separate disposal of the reactor vessel and internals. The reactor vessel internals would be segmented underwater. The non-GTCC internals would be placed in shielded casks and shipped to the US Ecology disposal facility via truck. The GTCC internals would be stored in the spent fuel pool or the ISFSI at the Trojan site. The reactor vessel would be disposed of separately from the internals and either

shipped whole, via barge, or segmented and shipped, via truck, to the disposal facility. Depending on the package shipped, NRC and/or DOT exemptions might still be required. The GTCC internals would be shipped at an unknown date in the future when a suitable repository becomes available to accept the waste.

Radiation exposures for the proposed action and the other disposition options were analyzed for on-site personnel, transportation personnel, general public, and disposal facility workers. The number of radioactive waste shipments for each scenario was based on the amount and configuration of the waste produced. Dose estimates do not include doses resulting from on-site storage and future shipment of GTCC waste to a waste repository (date and site unknown).

The proposed TRVP action has one radioactive waste shipment and a total exposure of 0.674 person-Sv (67.4 person-rem) [0.671 person-Sv (67.1 person-rem) of occupational exposure to on-site personnel]. Alternative A is inconsistent with the NRC-approved decommissioning plan for the site, and the impacts do not differ significantly from the proposed action. Alternative B would entail three radioactive waste shipments and a total exposure of 0.881 person-Sv (88.1 person-rem) [0.878 person-Sv (87.8 person-rem) of occupational exposure to on-site personnel]. Alternative C would involve 47 radioactive waste shipments and a total exposure of 1.389 to 1.399 person-Sv (138.9 to 139.9 person-rem) (1.332 person-Sv (133.2 person-rem) of occupational exposure to on-site personnel).

#### **Agencies and Persons Contacted**

Officials from the DOT Office of Hazardous Materials Technology, and the U.S. Coast Guard, Marine Safety Office/Group Portland, were contacted regarding impacts of the proposed action and had no concerns.

#### **Finding of No Significant Impact**

The environmental impacts of the proposed action have been reviewed in accordance with the requirements of part 51. Based on the foregoing EA, the Commission finds that the proposed action of: (1) Granting an exemption from 10 CFR 71.71(c)(7), so that PGE need not evaluate a free drop of 0.3 m (1 foot) under normal conditions of transport; and (2) granting an exemption from 10 CFR 71.73(c)(1) and 71.73(b), so that PGE need not evaluate a free drop of 9 m (30 feet) under hypothetical accident conditions, will not significantly impact the quality of the

human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

This application was docketed under part 71, Docket 71-9271. For further details about this action, see Dockets 50-344 and 72-017, which are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW, Washington, DC 20555, and the Local Public Document Room at Portland State University Library, Science Library, 951 Southwest Hall Street, Portland, Oregon 97201.

Dated at Rockville, MD, this 22nd day of October 1998.

For the Nuclear Regulatory Commission.

**M. Wayne Hodges,**

Acting Director, Spent Fuel Project Office,  
Office of Nuclear Material Safety and  
Safeguards.

[FR Doc. 98-28813 Filed 10-27-98; 8:45 am]

BILLING CODE 7590-01-P

## **NUCLEAR REGULATORY COMMISSION**

[Docket No. 40-9027]

### **Notice of Consideration of Amendment Request for Decommissioning the Cabot Performance Materials Reading, Pennsylvania, Site, and Opportunity for a Hearing**

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of a license amendment to Source Material License No. SMC-1562 to authorize decommissioning of the Cabot Performance Materials (CABOT) Reading, Pennsylvania, site. This license is issued to CABOT to possess contaminated material at its Reading and Revere, Pennsylvania, sites. NRC licenses these facilities under 10 CFR Part 40. Specifically, the license authorizes CABOT to possess 100 tons of elemental uranium and thorium total at both sites. The contaminated material at the Reading site is in the form of slag and soil located on the face of a slope. The contamination is the result of processing ores which contained uranium and thorium.

On August 28, 1998, the licensee submitted a site decommissioning plan (SDP) to NRC for review. The SDP concludes that long-term doses from the contaminated material at current levels meet the requirements of the Radiological Criteria for License Termination rule (10 CFR Part 20, Subpart E) (62 FR 39058). Therefore, the licensee proposes that no additional decommissioning is required.



Prior to the issuance of the amendment, NRC will have made findings required by the Atomic Energy Act of 1954, as amended, and NRC's regulations. These findings will be documented in a Safety Evaluation Report and an Environmental Assessment.

NRC provides notice that this is a proceeding on an application for a license amendment falling within the scope of Subpart L, "Informal Hearing Procedures for Adjudication in Materials Licensing Proceedings," of NRC's rules of practice for domestic licensing proceedings in 10 CFR Part 2. Pursuant to § 2.1205(a), any person whose interest may be affected by this proceeding may file a request for a hearing in accordance with § 2.1205(d). A request for a hearing must be filed within thirty (30) days of the date of publication of this **Federal Register** notice.

The request for a hearing must be filed with the Office of the Secretary either:

1. By delivery to Secretary, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852-2738, between 7:45 am and 4:15 pm Federal workdays; or

2. By mail or telegram addressed to Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Attention: Rulemaking and Adjudications Staff.

In addition to meeting other applicable requirements of Part 2 of the NRC's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

1. The interest of the requester in the proceeding;
2. How that interest may be affected by the results of the proceeding, including the reasons why the requester should be permitted a hearing, with particular reference to the factors set out in § 2.1205(h);
3. The requester's areas of concern about the licensing activity that is the subject matter of the proceeding; and
4. The circumstances establishing that the request for a hearing is timely in accordance with § 2.1205(d).

In accordance with 10 CFR 2.1205(f), each request for a hearing must also be served, by delivering it personally or by mail, to:

1. The applicant, Cabot Performance Materials, P.O. Box 1608, Boyertown, Pennsylvania 19512, Attention: Mr. Anthony T. Campitelli, and;
2. NRC staff, by delivery to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville

Pike, Rockville, MD 20852-2738, between 7:45 am and 4:15 pm Federal workdays, or by mail, addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

For further details with respect to this action, the application for amendment is available for inspection at NRC's Public Document Room, 2120 L Street NW., Washington, DC 20555-0001.

#### FOR FURTHER INFORMATION CONTACT:

Timothy E. Harris, Low-Level Waste and Decommissioning Projects Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Telephone: (301) 415-6613. Fax: (301) 415-5398.

Dated at Rockville, Maryland, this 20th day of October 1998.

For the Nuclear Regulatory Commission.

John W. N. Hickey,

Chief Low-Level Waste and Decommissioning Projects Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 98-28815 Filed 10-27-98; 8:45 am]

BILLING CODE 7590-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40588; File No. SR-DTC-98-13]

### Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of Proposed Rule Change Relating to Establishing a Practice of Collecting the Difference Between a Participant's Required Fund Deposit and its Actual Fund Deposit More Frequently

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 ("Act"), notice is hereby given that on June 11, 1998, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by DTC. DTC amended the proposed rule change on July 29, 1998. The Commission is publishing this notice to solicit comments from interested persons on the proposed rule change.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change establishes a practice of collecting the difference between a participant's required fund deposit<sup>2</sup> and its actual fund deposit<sup>3</sup> more frequently than monthly.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.<sup>4</sup>

#### (A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Currently, DTC calculates each participant's required fund deposit daily. If a participant's required fund deposit exceeds its actual fund deposit, DTC requires the participant to deposit the difference into DTC's participant fund on a monthly basis. The proposed rule change will further minimize DTC's exposure by providing for the collection of the difference between a participant's required fund deposit and actual fund deposit on a daily basis under certain circumstances.

Under the proposal, DTC will calculate a participant's actual and required fund deposit daily and require a participant to deposit the difference if two conditions are met. First, the amount of the difference between the funds must be equal to or exceed \$500,000, and second, the difference must represent 25% or more of the newly calculated required fund deposit. Under such circumstances, the participant will be required to deposit the difference into DTC's participant fund within two business days of the day the difference was calculated. This new standard will ensure that DTC's resources are sufficient to complete

<sup>2</sup> Required fund deposit is defined in DTC's Rule 1 as the amount a participant is required to deposit to the participant's fund.

<sup>3</sup> Actual fund deposit is defined in DTC's Rule 1 as the amount a participant has deposited to DTC's participant fund, including both its required fund deposit and any voluntary fund deposit.

<sup>4</sup> The Commission has modified the text of the summaries prepared by DTC.