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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

DOCKETED  
USNRC

Before

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Dr. Jerry R. Kline  
Administrative Judge

OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

SERVED SEP 25 1985

In the Matter of:

PRECISION MATERIALS CORPORATION

(Mine Hill, New Jersey  
Irradiator Facility)

Docket No. 30-22063 M/L

ASLBP No. 85-512-02 ML

September 24, 1985

MEMORANDUM AND ORDER

Introduction

This case concerns the safety of a cobalt 60 irradiator which is owned and operated by Precision Materials Corporation (PMC) of Mine Hill, New Jersey. A license to operate this facility has been issued by NRC, however, the Commission has ordered that an informal hearing be instituted.

On August 8, 1985, the presiding officer published a memorandum and order giving public notice of an informal hearing and opportunity to become a party in this case. 50 FR 32664. Subsequently the Township of Mine Hill, New Jersey (Mine Hill) filed a "Verified Petition to Intervene" signed and sworn to by Stephen Young, Mayor of the Township of Mine Hill which was postmarked September 12, 1985. No other petitions were received.

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Standing of Petitioner

In its petition Mine Hill states that it is a Municipal Corporation of the State of New Jersey with a principal office at Baker Street in Mine Hill, New Jersey. Mine Hill further states that the nature and extent of its interest in this proceeding includes but is not limited to: Whether the design and operation of Precision Materials Corp. (PMC) irradiator will be inimical to the health and safety of the citizens of Mine Hill; whether Mine Hill is able to provide police, fire, first aid and emergency personnel and equipment in the event of an emergency at the irradiator; what effect the transportation of radioactive materials to and from the irradiator site will have on the health and safety of citizens of Mine Hill and; the potential for contamination of Mine Hill's water supply in the event of spill, leak or seepage of radioactive material or water into the groundwater. (Assertion 4a and 4c in Mine Hill's petition are combined herein because they are redundant)

In paragraphs 6 through 11 of its petition, Mine Hill references specific sections of PMC's Byproduct Materials License and alleges deficiencies in the license. Mine Hill states that the relief it seeks in this case is correction of the deficiencies it alleges or if they cannot be corrected, revocation of PMC's Byproduct Materials License.

Under the practical test for standing set forth in the Memorandum and Order of August 8, 1985, petitioner must show that it will or might be injured in fact by one or more possible outcomes of the proceeding

and that the asserted interest of the petitioner in achieving a particular result is at least arguably within the zone of interests protected by the statute involved. Mine Hill's petition demonstrates a concern that it at least might be injured by radiation originating from PMC's irradiator that will be operated in its immediate vicinity. One possible outcome of this proceeding is that PMC's Materials License could be left unaltered without correction of the deficiencies alleged by Mine Hill. Mine Hill wishes to avoid this result and therefore it has made an adequate demonstration of possible injury in fact resulting from this proceeding. The protection Mine Hill seeks is from injury to its citizens from nuclear radiation which is within the zone of interests protected by the Atomic Energy Act.

Mine Hill's "Verified Petition to Intervene" was timely filed and it presents sufficient information to determine that Mine Hill has standing to participate as a party in this informal proceeding.

#### Admissibility of Issues

The extent and nature of any further proceedings depends on whether any or all of Mine Hill's issues are admissible for consideration.<sup>1</sup>

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<sup>1</sup> On September 23, 1985, just as this order was being completed, the Presiding Officer received a petition from PMC dated September 18, 1985, requesting dismissal of Mine Hill's petition to intervene for failure to state a claim upon which relief can be granted and for  
(Footnote Continued)

Before ruling on the admissibility of Mine Hill's issues PMC and the NRC Staff, if it chooses to participate, will have an opportunity to comment on whether any or all of Mine Hill's complaints are admissible for consideration or whether any should be rejected for the reasons stated in Section V of the Memorandum and Order of August 8, 1985. The substance of Mine Hill's complaints are contained in paragraphs 6 through 11 of its Verified Petition to Intervene and PMC's response (and the Staff's, if it participates) should address these paragraphs in detail regarding the admissibility of the complaints asserted.

Mine Hill states generalized concerns for the long term future of PMC's facility in paragraphs 12 and 13 of its petition. These concerns are asserted without reference to anything in the license or to NRC regulations or to any factual basis. They are, therefore, too vague to permit consideration in this proceeding.

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(Footnote Continued)

summary determination that License No. 29-20777-01 issued properly. This petition is premature in view of the submittals called for in this order and consideration will be deferred until the due date for filings ordered herein. On or before that date PMC may elect to request that its petition of September 18th be considered as its response to this order, or, in the alternative, it may submit a new response containing all matters it wishes to have considered. Appropriate disposition of its petition of September 18, 1985 can then be considered. Mine Hill need not respond to the September 18th petition until requested to do so.

### Settlement

NRC encourages efforts to settle disputes or to stipulate to relevant uncontested facts. 10 CFR 2.753 and 2.759. PMC and Mine Hill are encouraged to consider whether any otherwise admissible complaint in this case can be settled without further proceedings. Either PMC or Mine Hill may initiate settlement efforts and the NRC Staff, if it participates, may assist as appropriate. Settlement efforts may continue for as long as they are productive and joint reports of settled issues may be filed at any time during these proceedings. The Presiding Officer will not participate in settlement negotiations.

### Further Proceedings

The Presiding Officer expects to rule on the admissibility of issues after review of the responses ordered herein. Thereafter, if additional informal proceedings are required, issues will be resolved as far as possible on the basis of written factual briefs from the participants. Consideration and scheduling of oral hearings will be deferred until the need for them becomes evident. Participants should not make written filings on the merits of issues until they are called for by the Presiding Officer.

ORDER

For all of the foregoing reasons and in consideration of the entire record in this case, it is this 24th day of September, 1985

ORDERED

1. The Township of Mine Hill has standing to participate as a party in this informal proceeding.
2. PMC (and the NRC Staff, if it chooses to participate) shall file their responses concerning the admissibility of issues as discussed herein.
3. PMC's response shall be filed within 10 days after the receipt of this Order and the Staff's, if it participates, within 5 days after the receipt of PMC's response.

  
Dr. Jerry R. Kline  
ADMINISTRATIVE JUDGE

Dated at Bethesda, Maryland  
this 24th day of September, 1985