



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

FEB 10 1986

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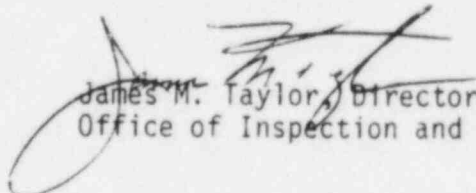
MEMORANDUM FOR: Samuel J. Chilk
Secretary to the Commission

FROM: James M. Taylor, Director
Office of Inspection and Enforcement

SUBJECT: HEARING WITH RESPECT TO IMMEDIATELY EFFECTIVE ORDER
MODIFYING LICENSE
METCOA, INC., fdba The Pesses Company
LICENSE NO. STB-1254; EA-85-122

An immediately effective Order Modifying License was issued to METCOA, INC., fdba The Pesses Company, on January 22, 1986. The Order required the licensee and/or its legal successor in interest to perform certain tasks related to decontamination and control of its site in Pulaski, Pennsylvania and provided an opportunity to request a hearing on the Order. By letter dated January 28, 1986, the trustee in bankruptcy for METCOA, INC., fdba The Pesses Company, Mr. Saul Eisen, Esq., requested a hearing. Copies of the hearing request and the Order are enclosed.

For your convenience we have developed the enclosed proposed Notice of Hearing which should be published in the Federal Register.


James M. Taylor, Director
Office of Inspection and Enforcement

Enclosures:

1. Proposed Notice of Hearing and Service List
2. Request for Hearing
3. Immediately Effective Order Modifying License

cc: Victor Stello, Jr., AEDO
Herzel H.E. Plaine, GC

CONTACT: William D. Paton, OELD
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PDR ADOCK 04008406
C PDR

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of

METCOA, INC., fdba The Pesses Company
1127 Euclid Avenue
Cleveland, Ohio 44116

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} License No. STB-1254
EA-85-122

NOTICE OF HEARING

METCOA, INC. (the Licensee), fdba The Pesses Company of Pulaski, Pennsylvania is the holder of NRC License No. STB-1254 which authorizes the Licensee to possess a maximum of 2,000 kilograms of thorium and to metallurgically treat and/or reprocess scrap thorium alloy containing not more than 2% thorium by weight for distribution to authorized recipients. On January 22, 1986 the Director, Office of Inspection and Enforcement, pursuant to the authority in Section 62, 63, 161b, 161i, and 161o of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 40 (the January 22, 1986 Order inadvertently referred to Part 30), served on the Licensee and its successor in interest, Saul Eisen, Esq., trustee in bankruptcy, METCOA, INC., fdba The Pesses Company, an immediately effective Order Modifying License. This Order (published in the Federal Register on January 29, 1986, 51 Fed. Reg. 3730), alleged that (1) the Licensee and/or its legal successor in interest abandoned the licensed facility during or before 1983, (2) licensed material authorized by the Licensee is no longer in the possession of the Licensee and/or its legal successor in interest, (3) radiation levels resulting from contamination at several locations on the site are in excess of regulatory limits for release for unrestricted use, and (4) the Licensee never notified the NRC or requested termination of its

license in accordance with 10 CFR 40.42. The Order required the Licensee and/or its legal successor in interest to (1) submit a decontamination plan for the Pulaski facility to the NRC Region I office within thirty days from the date of the Order for review and approval, (2) complete the decontamination effort within ninety days after the Regional Administrator's approval of the decontamination plan, (3) submit to the Region I office within thirty days of completion of the decontamination effort a survey report verifying certain designated levels of contamination and radiation and that all materials had been transferred to an authorized recipient, and (4) control entry to restricted areas until they are suitable for unrestricted use and until the NRC has confirmed in writing that successful decontamination has been completed.

The Order provided that the Licensee and/or its legal successor in interest or any other person whose interest is adversely affected by the Order may request a hearing within twenty-five days of its issuance.

Saul Eisen, trustee in bankruptcy, METCOA, INC., fdba The Pesses Company, responded to the Order by letter dated January 28, 1986 by requesting a hearing regarding the Order Modifying License.

Pursuant to the Atomic Energy Act of 1954, amended, and the regulations in Title 10, Code of Federal Regulations, Part 2, notice is hereby given that a hearing will be held before [the Honorable _____, Administrative Law Judge] [an Atomic Safety and Licensing Board (Board), consisting of _____, _____, and _____] at a time to be set by the [Administrative Law Judge] [Board].

The issue before the [Administrative Law Judge] [Board] to be considered and decided shall be whether the January 22, 1986 Order Modifying License should be sustained.

Pursuant to 10 CFR 2.705, an answer to this Notice may be filed by the Licensee and/or its legal successor in interest not later than twenty days from the date of publication of this Notice in the Federal Register.

A prehearing conference will be held by the [Administrative Law Judge] [Board] at a date and place to be set by the [Administrative Law Judge] [Board] to consider pertinent matters in accordance with the Commission's Rules of Practice. The date and place of hearing will be set at or after the prehearing conference and notice in the Federal Register.

Required papers shall be filed by mail or telegram addressed to the Secretary of the Commission, U. S. Nuclear Regulatory Commission, Washington, D. C. 20555, Attention: Chief, Public Proceedings Staff, or by delivery to the Commission's Public Document Room, 1717 H Street, N. W., Washington, D. C.

Pending further order to the [Administrative Law Judge] [Board], parties are required to file, pursuant to the provisions of 10 CFR 2.708, an original and two (2) copies of each document with the Commission. Pursuant to 10 CFR 2.785, the Commission authorizes an Atomic Safety and Licensing

Appeal Board to exercise the authority and perform the review functions which would otherwise be exercised and performed by the Commission. The Appeal Board will be designated pursuant to 10 CFR 2.787, and notice as to membership will be published in the Federal Register.

FOR THE NUCLEAR REGULATORY COMMISSION

Samuel J. Chilk
Secretary to the Commission

Dated in Washington, D.C.
this day of February 1986.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of

METCOA, INC., fdba The Pesses Company
1127 Euclid Avenue
Cleveland, Ohio 44116

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License No. STB-1254
EA-85-122

CERTIFICATE OF SERVICE

I hereby certify that copies of NOTICE OF HEARING in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class, or as indicated by an asterisk, through deposit in the Nuclear Regulatory Commission's internal mail system, this day of , 1986.

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Washington, D.C. 20555

(Administrative Law Judge) or
(Atomic Safety and Licensing Board)
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Atomic Safety and Licensing Appeal Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Office of the Secretary
of the Commission