



effects of leaving DU munitions onsite that the Presiding Officer found to be germane.<sup>2</sup> After granting petitioner's request for a hearing, the Presiding Officer held the proceedings in abeyance until the staff could complete its technical review and issue an environmental assessment and Safety Evaluation Report on the possession-only license.

The NRC staff reported back to the Presiding Officer that it could not complete its technical and environmental reviews until it received additional information from the Army. In March, the staff informed the Presiding Officer that it was still not certain when the Licensee will furnish the necessary information.

The Presiding Officer brought this matter to our attention because the petitioner has waited over five years for a hearing on its environmental and safety concerns. This situation hinders public participation, leaves public safety issues unresolved, and thwarts this agency's goal of expeditious adjudication.

We, therefore, order the licensee to provide a report to the Commission by July 11, 2005, detailing its past and planned efforts to gather the information necessary for the staff to complete its technical and environmental reviews. Additionally, by July 20, the staff is ordered to provide a report to the Commission regarding the steps it plans to take to complete its reviews in light of the information provided by the licensee. We understand that on May 25, 2005, the applicant submitted to the staff in a publicly available submittal several hundred pages of new information related to this license.<sup>3</sup> The staff regards the new information as a new license amendment request superseding the earlier application for a possession-only license. The staff should include a discussion of whether the applicant's recently submitted information will allow it to proceed with its evaluations related to this new license amendment application.

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<sup>2</sup>LBP-04-1, 59 NRC 27 (2004).

<sup>3</sup>See ADAMS document Accession Number ML051520319.

Also in their filings, the licensee and the staff should describe the practical impacts on their respective activities in the event the staff approves or disapproves of the pending application. Petitioner is also invited to provide its views on all of these matters by July 30, 2005.

IT IS SO ORDERED.

For the Commission<sup>4</sup>

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Annette L. Vietti-Cook  
Secretary of the Commission

Dated at Rockville, Maryland  
this 20<sup>th</sup> day of June, 2005

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<sup>4</sup> Commissioners McGaffigan and Lyons were not present for affirmation of this Memorandum and Order. Had they been present, they would have affirmed their prior votes.