

June 29, 1999

MEMORANDUM FOR: Karen D. Cyr
General Counsel

FROM: Annette Vietti-Cook, Secretary /s/

SUBJECT: STAFF REQUIREMENTS - AFFIRMATION SESSION, 9:00 A.M., TUESDAY, JUNE 29, 1999,
COMMISSIONERS' CONFERENCE ROOM, ONE WHITE FLINT NORTH, ROCKVILLE,
MARYLAND (OPEN TO PUBLIC ATTENDANCE)

I. COMSECY-99-019 - Proposed License to Export High Enriched Uranium (HEU) for Production of Medical Isotopes at the Canadian Maple Reactors (XSNM-03060)

The Commission⁽¹⁾ (with Chairman Jackson and Commissioners Dicus and Merrifield agreeing) approved a Memorandum and Order, with the attached changes, which approves the license to export highly enriched uranium to Canada over a five-year period for use as targets in the MAPLE reactors for the production of isotopes for medical applications. The Order also requires Commission annual reviews of the status reports from the Executive Branch and Applicants to ensure active development of LEU targets for the Maple reactors. Commissioners Diaz and McGaffigan disapproved the five-year license and would have preferred to limit the export to 60 percent of the amount requested believing that the Commission did not have adequate assurance that active development of LEU targets for the MAPLE reactors would continue.

(Subsequently, on June 29, 1999, the Secretary signed the Memorandum and Order.)

Attachment: As stated

cc: Chairman Jackson
Commissioner Dicus
Commissioner Diaz
Commissioner McGaffigan
Commissioner Merrifield
EDO
CIO
CFO
OCAA
OCA
OIG
OPA
Office Directors, Regions, ACRS, ACNW, ASLBP (via E-Mail)
PDR - Advance
DCS - P1-17

ATTACHMENT

Changes to the Memorandum and Order

1. On page 3, last paragraph, revise line 6 to read '... is currently scheduled to cease large-scale radioisotope production ~~for permanent shutdown~~ in the year'
2. On page 3, last paragraph, revise line 7 to read 'Applicants have stated'
3. On page 4, footnote 3, revise line 6 to read '... in the United States producing Mo-99 ~~medical isotopes~~ [GJD] but one is being converted ~~under construction~~ at Sandia National Laboratory pursuant to the 1996 Record of Decision.'
4. On page 5, in the last line, insert commas after 'satisfied' and 'therefore'.

5. On page 6, paragraph 2, revise lines 7 and 8 to read 'This pertinent language in the notes mirrors that used in AEA subsection 134a.(2) and subsection 134b(3)B.'
6. On page 6, at the end of paragraph 2 add a footnote which reads 'Section 134b(3)B does not define "total cost of operating the reactor." For the purposes of this export license, Canada and the United States provided that "total cost" includes costs associated with equipment for processing.'
7. On page 6, revise the last line to read ' ... and ANL reveal a clearer'
8. On page 9, 1st full paragraph, revise line 7 to read ' ... will be completed well before the end'
9. On page 9, footnote 9, revise lines 1 and 2 to read ' ... expect the Applicants to ~~expeditiously~~ provide the additional information requested by ANL expeditiously, and we would'
10. On page 11, revise the last line to read ' ... conditioned to require the Applicants ~~licensee~~ to submit'
11. On page 12, line 12 from the top, insert three new sentences after the period as follows:

'The Commission intends to place both the Applicant's report and the Executive Branch report in the Public Document Room. Therefore, proprietary information should be handled as an annex to the reports so that the information can be easily segregated from the rest of the reports. Upon examination of the reports, the Commission may hold a public meeting, if necessary, to gather additional information.'

Also, delete footnote 10.

12. On page 12, revise line 13 from the top to read ' ... these periodic status reports and a public meeting, if necessary, that the'
13. On page 12, revise line 14 from the top to read ' ... the Schumer Amendment ... may modify, suspend, or'
14. On pages 12, last paragraph, delete everything after the first two sentences (including the remainder of the paragraph on page 13), and replace it with:

'From the assurances provided to the Commission in the June 16, 1999 meeting, it is the Commission's understanding that ANL will be able to complete a feasibility study promptly, within approximately three months of receiving the necessary technical information. The Commission further understands that AECL will cooperate fully with ANL to complete a feasibility study as soon as possible. In light of these commitments, the Commission is encouraged that AECL may have a feasibility study in hand in time to consider whether minor modifications could be made prior to the MAPLE reactors and their processing facility coming on line that would permit the use of LEU targets, or take other reasonable measures that would at least preserve the opportunity to move to LEU targets in the future. To ensure compliance with the Schumer Amendment, the Commission expects the applicants to pursue all reasonable measures that would not cause "a large percentage increase in the total cost of operating the reactor." Having said this, we recognize that in determining whether changes are feasible, Applicants will have to consider the commitments it has made to the Canadian Government and its customers with respect to assuring the supply of medical isotopes and otherwise keeping costs to a minimum.'
15. The following sentence should be added to the end of the Order: 'Commissioners Diaz and McGaffigan, believing that the Commission did not have adequate assurance that active development of LEU targets for the MAPLE reactors would continue, voted to limit the license to 60 % of the requested amount of HEU.'

1. Section 201 of the Energy Reorganization Act, 42 U.S.C. Section 5841, provides that action of the Commission shall be determined by a "majority vote of the members present." Commissioner Diaz was not present when this item was affirmed. Accordingly the formal vote of the Commission was 3-1 in favor of the decision. Commissioner Diaz, however, had previously indicated that he would disapprove the five-year license and limited the license to 60% of the requested amount of HEU. Had he been present he would have affirmed his prior vote.