

RAS 6821

SUGARMAN & ASSOCIATES, PC

DOCKETED  
USNRC

September 16, 2003 (2:46PM)

ATTORNEYS AT LAW  
ROBERT MORRIS BUILDING - 11<sup>TH</sup> FLOOR  
100 NORTH 17<sup>TH</sup> STREET  
PHILADELPHIA, PENNSYLVANIA 19103

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

ROBERT J. SUGARMAN \*

215-864-2500 • FAX: 215-864-2501  
EMAIL: RJSUGARMAN@AOL.COM

BUCKS COUNTY OFFICE  
122 NORTH MAIN STREET  
DOYLESTOWN, PA 18901

DEBBIE L. GOLDBERG  
HEATHER R. BRINTON

215-348-8786 • FAX: 215-230-1922

\* Also admitted in NY, DC

September 9, 2003

Emile Julian  
Assistant for Rulemakings and Adjudications  
Office of the Secretary  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

**Re: Filing in CFC Logistics Licensing Proceeding  
No. 30-36239; ASLBP No. 03-814-01**

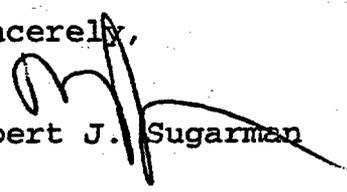
Dear Mr. Julian,

Enclosed please find for filing Petitioners' Brief in Reply to Staff Briefs, which was filed electronically on September 5, 2003, the original hard copy of which was sent to Administrative Judge Michael Farrar.

Also, please find the original Declaration of Marvin Resnikoff, Ph.D. Regarding the Question Whether Facility Constitutes a Significant Source with Obvious Potential for Off-Site Consequences (September 5, 2003), a faxed copy of which was filed as Exhibit A to Petitioners' Brief.

Thank you for your consideration.

Sincerely,

  
Robert J. Sugarman

RJS:mlg  
Enclosure

Template=SECY-018

SECY-02

September 5, 2003

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE PRESIDING OFFICER

In the Matter of )  
 )  
CFC LOGISTICS, INC. )  
 )  
(Materials License) )

Docket No. 30-36239-ML

ASLBP No. 03-814-01-ML

**DECLARATION OF MARVIN RESNIKOFF, Ph.D.  
REGARDING THE QUESTION WHETHER FACILITY CONSTITUTES A  
SIGNIFICANT SOURCE WITH OBVIOUS POTENTIAL FOR OFF-SITE  
CONSEQUENCES**

Under penalty of perjury, I, Dr. Marvin Resnikoff, hereby declare that:

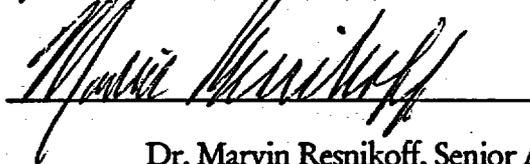
1. I have filed a declaration in support of the Petitioners' motion for a stay in the proceedings. The declaration contains a statement of my credentials and a list of issues as to why the proposed facility poses irreparable harm to the petitioners. Many of the addressed issues also relate to the presiding officer's question whether the facility constitutes a significant source with obvious potential for off-site consequences. Rather than repeat the statements in my stay declaration, I will reference and summarize the pertinent paragraphs from the non-confidential stay declaration. The paragraph numbers below refer to the stay declaration.
2. The staff and I agree that the facility contains a significant source. We disagree, however, about the question of whether the proposed CFC Logistics plant poses an obvious potential for serious off-site risks to public health and safety.
3. The obvious risks posed by the CFC Logistics facility are discussed in my declaration in support of Petitioners' stay motion. In ¶20, for instance, I discussed the extremely high dose rate from one unshielded source, yielding an LD50 dose in less than one minute.
4. In ¶¶13 through 17, I discuss the potential for a cask drop accident and the consequences. Co-60 would be released to the water and the air. If the liner were damaged, contamination would enter the groundwater. In ¶18, I discuss the fact that the water table is very high at the proposed irradiator. In ¶19, I discuss the fact that the applicant does not have adequate emergency procedures for responding to such an accident.
5. In ¶¶21 through 24, I discuss a loss of electricity accident. The applicant does not appear to have an emergency generator. My main concern here is that the sources could overheat and damage the sealed tubes and the plenum, contaminating the air, leading to a major off-site

release. The applicant has not correctly modeled the plenum containing one million curies of Co-60 in air, but instead appears to have modeled one 17,000 Ci source in water.

6. In ¶¶26 through 28, I discuss a shipping accident and the potential for sabotage. This would also lead to a major off-site release of Co-60.
7. Finally, in ¶10, I discuss the potential for sabotage of the proposed facility and the inadequacy of security arrangements. This is discussed in more detail in the supplemental confidential declaration I submitted.
8. In my best professional opinion, due to all the problems in CFC's application as discussed above, the operation of the proposed CFC Logistics irradiator poses an obvious potential for serious off-site risks to the health and safety of the surrounding public.
9. If the petitioners' concerns are admitted for litigation, I would testify regarding my opinion in support of their conclusions. The technical facts and analyses described in this declaration and the associated stay declarations provide an abstract of the testimony I would give, based on the information that has been furnished to date. I would expect to be able to expand upon and refine my testimony, after having an opportunity to review materials produced by CFC and the NRC Staff in discovery.

I declare under penalty of perjury that the factual information provided above is true and correct to the best of my knowledge and belief, and that the professional opinions expressed above are based on my best professional judgment.

Executed on this 5th day of September, 2003.



Dr. Marvin Resnikoff, Senior Associate  
Radioactive Waste Management  
526 West 26th Street, Room 517  
New York, NY 10001  
Phone (212) 620-0526