

December 11, 2003 (3:09PM)

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

In matter of	:	DOCKET NO. 30-36239-ML
CFC LOGISTICS, INC.	:	ASLBP NO. 03-814-01-ML
materials license application	:	

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OBJECTIONS TO STAFF BRIEF ON AREA OF CONCERN REGARDING
DECOMMISSIONING FINANCIAL ASSURANCE AND SECURITY

The Staff opposes the Board considering area of concern seven regarding the asserted absence of a required decommissioning plan and the asserted insufficiency of the bond. The current Certificate of Deposit in the amount of \$75,000 is insufficient in the face of the current safety concerns with the facility, the known costs of decommissioning a cobalt-60 site, and the inadequacy and overruling of 10 CFR § 30.35(d).

In essence, the Staff is applying regulations which it acknowledges are obsolete and inadequate. (Br. at 3). By virtue of Staff admission, the regulations are overruled, having been determined to be inadequate. Therefore, the validity of the regulation need not be the basis of reviewing the safety of this facility, but rather meeting the decommissioning and safety obligations should be of the utmost concern.

Nevertheless, clearly, the Staff does not the consider the adequacy of the bond to be a relevant consideration for licensing. The Staff goes out of its way to "reassure" the Board that it is not expected that the CFC will fold with inadequate resources. However, there is nothing in the record whatsoever to support the unknown individual's unsupported "reassurance." It is well established that the environmental impact and the costs clean up in the event of failure are a subjects to be considered. Given the speculative nature of the activities at this facility (including the fact that CFC has not yet been able to land a contract for meat processing or any food processing, which may drive their prices down to an unsupportable level, or may lead to a business decision to abandon the plant, or any other alternative to actual insolvency), and no showing of any solvent entity behind the plant as a whole, (including leveraging the extent of which is unknown), obviously, the unknown person's reassurance is not credible, at least not to the point of eliminating the issue. Moreover, the Staff report on the failure at PermaGrain shows that disposal costs of used contaminated rods are extremely high, and indeed are not economically viable in regard to the value, etc. This is a clear NEPA issue. Thus, given the Staff confession of inadequacy, plus PermaGrain, if the issue is foreclosed, the Board should refer it to the Commission

for an exception.

Therefore, if the Board considers that it must close its eyes to this real safety concern, the intervenors request that the Board refer the matter to the Commission as an "exception" or "waiver" to make the Commission's action consistent with the Commission's own Staff statement.

Respectfully submitted,

A handwritten signature in black ink, consisting of a stylized 'R' followed by a large, sweeping flourish that extends to the right and then curves back down.

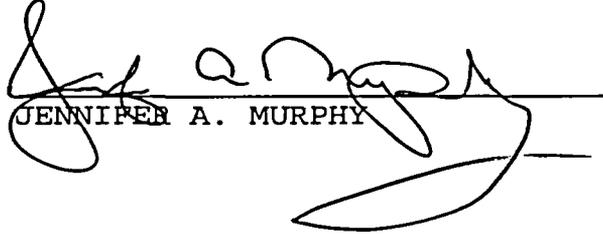
Robert J. Sugarman
Counsel for Intervenors

CERTIFICATE OF SERVICE

I, Jennifer A. Murphy, hereby certify that I have served a copy of Objections to Staff Brief on Area of Concern Regarding Decommissioning Financial Assurance and Security by first-class mail, email, and facsimile on the following persons on this date:

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FAX 202-496-0783

Stephen H. Lewis, Esquire
Office of General Counsel
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U.S. Nuclear Regulatory Commission
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JENNIFER A. MURPHY

DATED: December 8, 2003

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* Also admitted in NY, DC
** Also admitted in NJ

December 8, 2003

VIA ELECTRONIC MAIL, FACSIMILE AND U.S. FIRST CLASS MAIL

U.S. Nuclear Regulatory Commission
Office of the Secretary
Attn: Rulemaking and Adjudications Staff
One White Flint North
11555 Rockville Pike
Rockville, MD 20852

RE: CFC Logistics, Inc.
Docket No. 30-36239-ML
ASLBP No. 03-814-01-ML

Dear Secretary:

Enclosed for filing are Objections to Staff Brief on Area of Concern Regarding Decommissioning Financial Assurance and Security. Copies of the enclosed have been served on the parties indicated on the enclosed certificate of service. Additionally, please return a file-stamped copy in the self-addressed stamped envelope attached herewith.

Respectfully,



Robert J. Sugarman

RJS:saj
Enclosure

SUGARMAN & ASSOCIATES, PC

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December 8, 2003

VIA ELECTRONIC MAIL, FACSIMILE AND U.S. FIRST CLASS MAIL

Administrative Judge Michael C. Farrar
Presiding Officer
Atomic Safety and Licensing Board Panel
U. S. Nuclear Regulatory Commission
Washington, DC 20555-0001

RE: CFC Logistics, Inc.
Docket No. 30-36239-ML
ASLBP No. 03-814-01-ML

Dear Judge Farrar:

Please find enclosed Objections to Staff Brief on Area of Concern Regarding Decommissioning Financial Assurance and Security in the above-captioned matter.

Thank you for your consideration.

Respectfully,



Robert J. Sugarman

RJS:saj
Enclosure
cc: Stephen Lewis, Esquire
Anthony Thompson, Esquire
Office of the Secretary