

Intervenors submit papers identifying the issues NRC Staff should address in their response. This Response details CFC Logistics' response to the Presiding Officer's request.

II. PROPOSED QUESTIONS FOR NRC STAFF RESPONSE

With respect to the potential questions for NRC Staff's response to Intervenors' November 10, 2003 motion for a stay of the effectiveness of CFC Logistics' NRC materials license, CFC Logistics asserts that NRC Staff should be directed to address the following questions in conjunction with a response to arguments presented in CFC Logistics' and Intervenors' previously filed briefs:

- (1) Was NRC Staff aware that the CFC Logistics Category III underwater irradiator is a "prototype" (i.e., "the first of its kind")?;
- (2) Assuming NRC Staff was aware of this fact during its review of CFC Logistics' license application, does this fact represent a health and safety issue?;
- (3) Does NRC Staff agree that dry storage of the NRC-approved cobalt-60 "sealed sources" in the plenum at the bottom of the shielding pool is the primary "prototypical" difference between the CFC Logistics Category III underwater irradiator and other previously licensed Category III underwater irradiators?;
- (4) If so, does dry storage of the NRC-approved cobalt-60 "sealed sources" in the plenum at the bottom of the shielding pool represent a health and safety issue (i.e., wet versus dry storage) or a production efficiency issue related to the ability to irradiate bulk product effectively?;

- (5) Is the CFC Logistics Category III underwater irradiator, as licensed with the presence of a “check valve” on the plenum, adequately protective of public health and safety?;
- (6) Does the presence of the “check valve” on the plenum pose a health and safety issue?;
- (7) Does the presence of water in the plenum pose a health and safety issue?;
- (8) Was NRC Staff ever told by REVISS Services, Ltd. (REVISS) or any other party that the presence of a “check valve” on the plenum represented a health and safety issue?;
- (9) Was NRC Staff ever told by REVISS or any other party that removal of the “check valve” made the plenum “safer” as opposed to “no less safe?”;

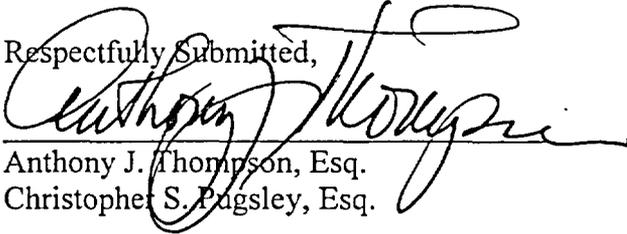
With respect to the potential questions for NRC Staff’s response to Intervenors’ December 1, 2003 request for document production and reference to the Commission, CFC Logistics asserts that NRC Staff should be directed to address the following questions in conjunction with a response to arguments presented in CFC Logistics’ and Intervenors’ previously filed briefs:

- (1) Is “discovery” prohibited in Subpart L proceedings?;
- (2) Does NRC Staff agree that the Commission’s February 28, 1989 Final Rule regarding Subpart L proceedings states that parties do not have a right to discovery unless authorized by agency regulations and that the hearing file is the source of documents available to parties in Subpart L hearings?;

- (3) Were Subpart L proceedings designed primarily to address Atomic Energy Act of 1954 issues that pose less potential threats to public health and safety and, thus, obviate the need for more formal, detailed adjudicatory proceedings?;
- (4) Does the production of documents and information which were not previously known to a party and were not requested by NRC Staff during its review of a license application or required to be submitted by regulation constitute "discovery?";
- (5) In a scenario where information was provided to NRC Staff indicating that violations of NRC requirements were occurring at an NRC-licensed facility during an ongoing Subpart L proceeding, would such information trigger the need for "discovery" or would such information require immediate investigation by NRC's Office of Enforcement?

CFC Logistics respectfully requests that the Presiding Officer direct NRC Staff to respond to the issues listed above and that CFC Logistics be given an opportunity to respond to NRC Staff's response in turn.

Respectfully Submitted,



Anthony J. Thompson, Esq.
Christopher S. Pugsley, Esq.

COUNSEL FOR CFC LOGISTICS, INC.

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD**

Before Administrative Judges:

**Michael C. Farrar, Presiding Officer
Charles N. Kelber, Special Assistant**

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In the Matter of:) Docket No.: 30-36239-ML
CFC Logistics, Inc.) ASLBP No.: 03-814-01-ML
)
(Materials License Application)) License No. 132825
)
) Date: December 16, 2003
)

CERTIFICATE OF SERVICE

THIS IS TO CERTIFY that a copy of the foregoing Response of CFC Logistics, Inc. to Presiding Officer's Request for Information Regarding NRC Staff Responses in the above-captioned matter has been served upon the following via electronic mail, facsimile and U.S. First Class Mail on this 16th day of December, 2003.

- | | | | |
|----|--|----|--|
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Commission
One White Flint North
11555 Rockville Pike
Rockville, MD 20851
Facsimile: 301.415.1101
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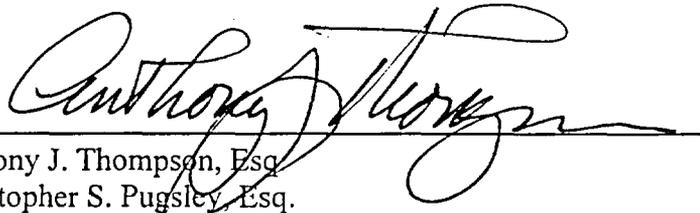
3. Stephen H. Lewis, Esq.
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December 16, 2003

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

U.S. Nuclear Regulatory Commission
Office of the Secretary
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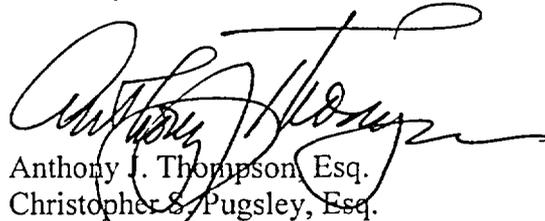
Re: In the Matter of: CFC Logistics, Inc.
Docket No: 3036239-ML
ASLBP No. 03-814-01-ML
License No. 132825

Dear Sir or Madam:

Please find attached for filing Response of CFC Logistics, Inc. to Presiding Officer's Request for Information Regarding NRC Staff Responses in the above-captioned matter. 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, postage prepaid envelope attached herewith.

If you have any questions, please feel free to contact me at (202) 496-0780.
Thank you for your time and consideration in this matter.

Sincerely,



Anthony J. Thompson, Esq.
Christopher S. Pugsley, Esq.
Law Offices of Anthony J. Thompson, P.C.
Counsel of Record to IUSA

Enclosures

(CFCCOVERLETTTER1.DOC)