

NYSERDA LICENSE CSF-1
SUMMARY of AMENDMENTS NO. 31 and 32

After the passage of the West Valley Demonstration (WVDP) Act, License CSF-1 was amended twice. The first amendment (Amendment 31, dated September 30, 1981, ML053000203) added a new Condition 7 that authorized the New York State Energy Research and Development Authority (NYSERDA) and Nuclear Fuel Services (NFS) to transfer the facility to the U.S. Department of Energy (DOE) in accordance with the WVDP Act. The second amendment (Amendment 32, dated February 11, 1982, ML053000209) removed NFS from the license. Condition 7 of Amendment 31 provides, in part, that:

7. The licensees . . . may transfer the facility to [DOE] in accordance with the [WVDP Act], subject to the following conditions:

A. DOE shall assume exclusive possession of the facility and shall continue in possession until such time as the licensees . . . reacquire the facility.

B. (1) Commencing on the date of transfer of the facility to DOE, and continuing until DOE surrenders possession thereof:

a) Neither licensee shall be authorized to possess, use, or operate, or be responsible for maintenance, surveillance, or safeguarding of the facility under this license; and to the extent that either licensee retains any right, title, or interest in any property located at the facility or any interest or responsibility under this license, it is not authorized to take or permit, and shall not take or permit, any action which in DOE's judgement may inhibit or prevent DOE from taking any action under the [AEA or WVDP Act]:

(i) to carry out its activities pursuant to the [WVDP Act];

(ii) to guard against the loss or diversion of any special nuclear material located at the facility;

(iii) to prevent any use of or disposition of any special nuclear material located at the facility which DOE may determine to be inimical to the common defense and security; or

(iv) to protect health or minimize danger to life or property.

b. Neither licensee shall have further responsibility . . . to develop, maintain or submit records or reports. . . .

(2) Commencing on the date of transfer of the facility, the technical specifications . . . and the conditions contained in the amendment to this license for special nuclear materials safeguards, shall be held in abeyance.

. . . .

D. Except as provided in subparagraphs (A), (B), and (C) of this paragraph 7, the responsibilities of the licensees under this license . . . shall continue in effect, provided that neither licensee is authorized to take or permit, and shall not take or permit (to the extent it has legal authority to do so) any other person to take, any action which in

DOE's judgment may inhibit or prevent DOE from taking any action under the [AEA or WVDP Act]:

- (1) to carry out its activities pursuant to the [WVDP Act];
- (2) to guard against the loss or diversion of any special nuclear material located at the facility;
- (3) to prevent any use of or disposition of any special nuclear material located at the facility which DOE may determine to be inimical to the common defense and security; or
- (4) to protect health or minimize danger to life or property.

E. The licensees . . . shall:

- (1) reacquire and possess the facility upon completion of the Project...

In light of the above, it is clear that license CSF-1 is in effect. It prescribes terms for and continues certain licensee responsibilities (Condition 7D). Under Condition 7A, DOE has exclusive possession of the facility until DOE completes its responsibilities under the WVDP Act. During the period DOE is in possession of the facility, NYSERDA is not authorized to possess, use, or operate, or be responsible for maintenance, surveillance, or safeguarding the facility...(Condition 7B(1)(a)). Further, NYSERDA is not authorized to take or permit, any action which in DOE's judgement may inhibit or prevent DOE from taking any action ... to carry out its activities pursuant to the WVDP Act (Condition 7B(1)(a)(i)). In addition, the technical specifications and certain other provisions of the license are held in abeyance (Condition 7B(2)). Finally, NYSERDA shall reacquire and possess the facility upon completion of the project....(Condition 7E(1)). Thus, the license may not be amended to allow NYSERDA to proceed with licensing and decommissioning actions with respect to the site as a whole until DOE indicates it is ready for NYSERDA to reacquire and possess the entire site.

