

30 SEP 1981

Docket No. 50-201

Nuclear Fuel Services, Inc.  
ATTN: Mr. Ralph W. Deuster, President  
6000 Executive Boulevard, Suite 600  
Rockville, MD 20852

Change No. 31  
Facility License No. CSF-1

Gentlemen:

This is an amendment (Change No. 31) to facility License No. CSF-1, together with a copy of a notice, concerning this amendment, which has been submitted for publication in the Federal Register. This amendment is issued in response to the application filed on August 19, 1981, by the New York State Energy Research and Development Authority, joined by the U.S. Department of Energy.

In accordance with paragraph C(2) of new Condition 7. of the amended license, we propose to appropriately amend Indemnity Agreement B-29 as of the time of the transfer of the facility to the Department of Energy. We anticipate execution of an amendment to the indemnity agreement at that time.

Accordingly, pursuant to 10 CFR §50.91 new Condition 7. to the license, as shown in enclosure 1, is authorized.

In acting upon the request for an amendment, we have carefully considered the views expressed in your letters of September 11, 1981 and September 25, 1981. You may, of course, request a hearing with respect to this action in accordance with Section 189a. of the Atomic Energy Act of 1954, as amended.

Sincerely,

Original signed by  
Leland C. Rouse

Leland C. Rouse, Chief  
Advanced Fuel and Spent Fuel  
Licensing Branch  
Division of Fuel Cycle and  
Material Safety  
Office of Nuclear Material Safety  
and Safeguards

FC

RECunningham  
9/ /81

Enclosures:

1. New License Condition 7.
2. Federal Register Notice
3. Safety Evaluation

OFFICE	CC: Mr. James Larocca	NYSEEDA	FCAF	FCAF	ELD	
NAME			ATClark:flb.	LCRouse	GHCunningham	(see prev.)
DATE			9/29/81	9/29/81	9/29/81	

30 SEP 1981

Docket No. 50-201

New York State Energy Research and  
Development Authority  
ATTN: Mr. James Larocca, Chairman  
Agency Building No. 2, Empire State Plaza  
Albany, New York 12223

Change No. 31  
Facility License No. CSF-1

Gentlemen:

This is an amendment (Change No. 31) to facility License No. CSF-1, together with a copy of a notice, concerning this amendment, which has been submitted for publication in the Federal Register. This amendment is in response to your application filed on August 19, 1981, and joined by the U.S. Department of Energy. As you will observe, the amendment contains certain additions or modifications along the lines we discussed with you on September 17, 1981.

In accordance with paragraph C(2) of new Condition 7. of the amended license, we propose to appropriately amend Indemnity Agreement B-29 as of the time of the transfer of the facility to the Department of Energy. We anticipate execution of an amendment to the indemnity agreement at that time.

Accordingly, pursuant to 10 CFR §50.91 new Condition 7. to the license, as shown in enclosure 1, is authorized.

Sincerely,

Original signed by  
Leland C. Rouse

Leland C. Rouse, Chief  
Advanced Fuel and Spent Fuel  
Licensing Branch  
Division of Fuel Cycle  
and Material Safety  
Office of Nuclear Material  
Safety and Safeguards

Enclosures:

1. New License Condition 7
2. Federal Register Notice
3. Safety Evaluation

FC

RECunningham  
9/ /81

OFFICE		FCAF <i>LR</i>	FCAF <i>LR</i>	ELD
RRNAME	cc: Mr. Ralph W. Deuster, IFS	ATClark:flb	LCRouse	GHCunningham (see prev.)
DATE		9/29/81	9/29/81	9/29/81

7. The licensees, as their respective interests under this license appear, may transfer the facility to the United States Department of Energy ("DOE") in accordance with the West Valley Demonstration Project Act ("Project Act"), Pub. L. No. 96-368, 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, as their respective interests under this license appear, 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 judgment may inhibit or prevent DOE from taking any action under the Atomic Energy Act or the Project Act:
      - (i) to carry out its activities pursuant to the Project 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 under subparagraph 5 (B) or (C) of this license to develop, maintain, or submit records or reports pertaining to events occurring or conditions prevailing at the facility during the time the facility is in DOE's possession;
  - (2) Commencing on the date of transfer of the facility, the technical specifications referenced in subparagraph 5(A) of this license, and the conditions contained in the amendment to this license for special nuclear materials safeguards, shall be held in abeyance.
  - C. (1) DOE will contract with a person or persons to perform services for the benefit of the United States, subject to the direction and

30 SEP 1981

supervision of DOE, such contractual activity to include the conduct of the West Valley Demonstration Project ("Project") and such other services as may be needed in connection with the transferred facility from the time of the transfer and for so long thereafter as such facility is in the possession of DOE, and DOE will enter into agreements of indemnification with such person or persons in accordance with section 170d. of the Atomic Energy Act.

- (2) Effective as of the time of transfer of the facility to DOE, and until DOE surrenders possession of the facility, Indemnity Agreement No. B-29 shall be suspended. Such suspension shall be evidenced by an amendment to said Indemnity Agreement which provides that the agreement shall not include the period of suspension described in the preceding sentence, and that the suspension shall not affect any obligation of the parties to the agreement with respect to any nuclear incident occurring prior to the suspension.
- D. Except as provided in subparagraphs (A), (B), and (C) of this paragraph 7, the responsibilities of the licensees under this license, as their respective interests under this license appear, 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 Atomic Energy Act or the Project Act:
- (1) to carry out its activities pursuant to the Project 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, as their respective interests under this license appear, shall:
- (1) reacquire and possess the facility upon completion of the Project, in accordance with such technical specifications and subject to such other provisions as the Commission finds necessary and proper under the Atomic Energy Act and Commission regulations; and
  - (2) make timely submissions to the Commission, in anticipation of completion of the Project, as may be required by the Commission to determine such technical specifications and other provisions.

30 SEP 1991

UNITED STATES NUCLEAR REGULATORY COMMISSIONDOCKET NO. 50-201NUCLEAR FUEL SERVICES, INC. ANDNEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY(WESTERN NEW YORK NUCLEAR SERVICE CENTER)ISSUANCE OF AMENDMENT TOFACILITY LICENSE NO. CSF-1

Nuclear Fuel Services, Inc. and New York State Energy Research and Development Authority (as successor to the New York State Atomic and Space Development Authority) hold Provisional Operating License No. CSF-1. The license, issued under section 104b. of the Atomic Energy Act, authorizes operation of a spent nuclear fuel reprocessing and radioactive waste disposal facility at the Western New York Nuclear Service Center in West Valley, New York (the Center).

Under the West Valley Demonstration Project Act, Pub. L. 96-368, (the West Valley Act), the Department of Energy has been authorized to carry out a high level radioactive waste management demonstration project at the Center for the purpose of demonstrating solidification techniques which can be used for preparing high level liquid radioactive waste for disposal.

On August 19, 1981 the Commission received an application for amendment of Facility License No. CSF-1 to authorize transfer of the facility to the Department of Energy. As provided by the West Valley Act, the application was submitted by the New York State Energy Research and Development Authority, joined by the Department of Energy. Notice of receipt of the application was published in the FEDERAL REGISTER on September 2, 1981 (46 FR 44110).

In accordance with 10 CFR §2.106, notice is hereby given that the Commission has today issued an amendment to License No. CSF-1 authorizing the co-licensees, as their respective interests under the license appear, to transfer the facility to the Department of Energy in accordance with the West Valley Act. The Commission has determined that the application for the amendment complies with the requirements of the Atomic Energy Act and the regulations of the Commission (10 CFR Chapter I). The Commission has determined that this amendment involves no significant hazards consideration. Copies of the amendment to the license and the NRC staff's safety evaluation are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Local Public Document Rooms maintained at the Buffalo and Erie County Public Library, Lafayette Square, Buffalo, New York; and the Town of Concord Public Library, 23 North Buffalo Street, Springville, New York.

Dated at Silver Spring, Maryland, this 30<sup>th</sup> day of September, 1981.

FOR THE NUCLEAR REGULATORY COMMISSION

*Leland C. Rouse*

Leland C. Rouse, Chief  
Advanced Fuel and Spent Fuel  
Licensing Branch  
Division of Fuel Cycle and  
Material Safety

U.S. NUCLEAR REGULATORY COMMISSION

SAFETY EVALUATION REPORT

RELATED TO

AMENDMENT NO. 31

TO FACILITY OPERATING LICENSE CSF-1

DIVISION OF FUEL CYCLE AND MATERIAL SAFETY

SEPTEMBER 1981

I. FINDING OF NO SIGNIFICANT HAZARDS CONSIDERATION

Introduction

The West Valley Demonstration Project Act of 1980 (the Act), Public Law No. 96-368, authorized the Department of Energy to carry out a high-level liquid nuclear waste management project at the Western New York Nuclear Service Center (the Center) in West Valley, New York. In accordance with Section 2(b)(4)(A) of the Act, the State of New York "will make available to the Secretary [of the Department of Energy] the facilities of the Center and the high level radioactive waste at the Center which are necessary for the completion of the project."

In addition, the Department of Energy and the State of New York were required [Sec. 2(b)(4)(D)] to submit an application jointly for a licensing amendment as soon as possible with the Nuclear Regulatory Commission providing for the demonstration.

On August 14, 1981 the Energy Research and Development Authority (ERDA) of the State of New York, joined by the U.S. Department of Energy (DOE), submitted an application for amendment of Facility License No. CSF-1 to provide for the West Valley Demonstration Project Act at the Western New York Nuclear Service Center.

Consideration of Criteria

As provided by 10 CFR § 50.91, the U.S. Nuclear Regulatory Commission (the Commission) determines, before acting thereon, whether a proposed amendment to a facility license involves a significant hazards consideration. In making this determination, it is appropriate to consider whether operation of the facility would (1) involve a significant increase in the probability of consequences of an accident previously evaluated, (2) create the possibility of an accident of a type different from any evaluated previously, or (3) involve a significant reduction in a margin of safety. If the Commission reaches a negative conclusion on all criteria set forth in (1), (2), and (3) above, the proposed amendment may be considered to involve no significant hazards consideration.

It should be noted, first, that the proposed amendment would authorize transfer of the facility, but not operation of the facility by DOE (which is exempt from licensing). Therefore, there is no need to evaluate the hazards associated with operation during the period when the facility is in DOE's possession and control. This conclusion is consistent with the provisions in Section 2(c) of the Act that Commission review with respect to the project shall not include formal licensing procedures under the Atomic Energy Act.

Each of the three criteria above may first be considered in relation to the period when the facility is in the possession of DOE. During that time, the licensees are not authorized to take any action under the license. All activities will be conducted by DOE. Since no activities will be taken under the authority granted by the license, no type of accident could occur as a result of licensed activities. Therefore, with respect to the period of license suspension during which DOE will be in possession of the facility, all three of the above criteria are met and the proposed amendment may be considered to involve no significant hazards consideration.

Upon resumption of activities under the license, following completion of the project by the Department of Energy in conformance with the Act, the most important safety-related aspect at the site, the continued care of the liquid high-level waste, will no longer exist. As set forth in the Act in Section 2(a), the high-level waste will have been solidified in containers suitable for permanent disposal and transported to a Federal repository for permanent disposal. At least parts of the facility will have been decontaminated and decommissioned by the Department of Energy.

Again considering the criteria stated above, (1) there will be a decrease in the probability or consequences of the accidents previously evaluated (there will be no possibility for an accident involving liquid high-level waste), (2) there will be no possibility of creating a type of accident different from those presently evaluated because the project facilities will have been decontaminated and decommissioned, and (3) the margins of safety would have been increased, rather than reduced, since the liquid high-level waste would no longer require management.

Therefore, upon resumption of the license the three criteria are met and the proposed amendment may be considered to involve no significant hazards consideration.

The staff also has considered Paragraph 7.E.(2) of the license amendment, which states that "the licensees, as their respective interests under this license appear, shall...

"(2) make timely submissions to the Commission, in anticipation of the completion of the project, as may be required by the Commission to determine such technical specifications and their provisions."

By this provision the staff has assured that prior to the reacquisition of the site all safety concerns will have been considered and properly evaluated for the protection of the health and safety of the public.

### Conclusions

Based on the above discussion, the staff has concluded that the issuance of Amendment No. 31 to Facility License No. CSF-1 involves no significant hazards consideration.

### II. FURTHER FINDINGS

In accordance with 10 CFR §50.91, the staff further concludes that the issuance of the license amendment will not be inimical to the common defense and security or to the health and safety of the public. In arriving at this conclusion, the staff has taken into consideration, in addition to the evaluation above, the license amendment provision which expressly constrains the licensee from taking any actions which in DOE's judgment may inhibit or prevent DOE from discharging safety and security responsibility.

In accordance with 10 CFR § 51.5(d)(4), no environmental report, environmental impact appraisal or assessment, negative declaration or finding of no significant impact or environmental impact statement is required with respect to the issuance of the license amendment.