

Friends of the Earth

February 22, 2010

U.S. Nuclear Regulatory Commission
FOIA/Privacy Act Officer
Mailstop: T-5 F09
Washington, DC 20555-0001

FOIA REQUEST

Doc No:

2010-0144

Date Recd:

2-26-10

Specialist:

Kaplan

Related Case:

FOIA Request on NMSS Observation Trip to Japan's Rokkasho and Tokkai Reprocessing Plants, December 9-20, 2009

To Whom it Concerns:

This is a request being filed under the Freedom of Information Act (FOIA), as amended.

I am filing this request as a duly authorized employee of Friends of the Earth, a legally registered non-profit environmental organization, with which I hold the title Southeastern Nuclear Campaign Coordinator. All information gathered under this request will be used for non-profit, public education purposes only, both in South Carolina and nation-wide.

I request that all fees associated with this request be waived given the non-profit educational and scientific use which will be made of the information. My organization and I will disseminate the information obtained under this request to the benefit of public understanding of the Nuclear Regulatory Commission's development of regulations for reprocessing plants. I and my organization have a long-demonstrated ability to analyze and disseminate information to the public on the various nuclear programs, for non-profit, public interest use. I have worked on reprocessing issues, including many trips to Japan for thirty years and have a long recording in analyzing information about reprocessing. I have recently been provided fee waivers in other FOIA requests to the NRC, thus establishing a basis for a similar fee waiver determination in this case.

The requested documents are an integral part of better understanding of how the NRC is developing a regulatory basis for the operation of a reprocessing plant and it is thus essential that the information be released.

This request applies to the Nuclear Regulatory Commission and any NRC contractor who may have been involved in the relevant trip to Japan.

If the NRC maintains that the documents are proprietary and will be withheld in response to this request, I expect a full justification be made for such a claim and that applicable FOIA exemptions, Council on Environmental Quality regulations, as well as other applicable regulations be cited.

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I maintain the right to appeal any aspect of your decisions regarding this request, particularly if a less than full justification is made concerning a claim that the documents have a proprietary status. I am not requesting information prepared by the Japanese government, so that related exclusion under FOIA regulations does not apply.

The requested information which can be provided in printed form, via a CD or DVD, or via e-mail.

I request that the information be provided as it becomes available and that you do not wait until all the information is accumulated to provide it to me.

The NRC office to which this request applies is primarily the Office of Nuclear Material Safety and Safeguards (NMSS), Division of Fuel Cycle Safety and Safeguards.

So that you better understand the focus of this request, I am including a section from the NRC weekly information report dated January 5, 2010 (SECY-10-0002) which discusses the trip to Japan and a Nuclear Fuel article of January 11, 2010, entitled *NRC visit to Rokkasho focuses on safeguards, risk assessment*.

I hereby request the following documents, including any attachments:

- 1. Approved copies of "REQUEST FOR APPROVAL OF OFFICIAL FOREIGN TRAVEL" (NRC Form 445) for all NRC staff participating in a December 9-20, 2009 trip to Japan.**
- 2. All trip reports prepared by staff participating in the December 9-20, 2009 trip to the Rokkasho and Tokai reprocessing plants in Japan.**
- 3. A copy, redacted if necessary, of the "safety/risk analyses" for the Rokkasho reprocessing plant as prepared by NRC staff as a result of the trip to Japan from December 9-20, 2009.**

Thank you very much for your timely attention to this FOIA request, which is important to public interest groups monitoring developments related to spent fuel management and reprocessing in the United States.

If you have further questions or want to discuss this request, please contact me at your convenience via telephone at 803-834-3084 or via e-mail at tomclements329@cs.com.

Sincerely,



Tom Clements
Southeastern Nuclear Campaign Coordinator

INFORMATION REPORT

January 5, 2010

SECY-10-0002

For: The Commissioners

From: Nader L. Mamish
Assistant for Operations
Office of the Executive Director for Operations

Subject: WEEKLY INFORMATION REPORT - WEEK ENDING
DECEMBER 25, 2009

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*No input this week.

/RA/
Nader L. Mamish
Assistant for Operations, OEDO

Contact:
L. Rakovan, OEDO

Office of Nuclear Material Safety and Safeguards (NMSS)
Items of Interest
Week Ending December 25, 2009

✓
Observation of Safety and Safeguards Programs at Rokkasho Reprocessing Plant in Japan

From December 9 through 20, 2009, staff from the Office of Nuclear Material Safety and Safeguards (NMSS), Division of Fuel Cycle Safety and Safeguards travelled to Japan to: (1) conduct information exchange activities and discuss regulatory experience with the appropriate Japanese safety and safeguards regulators providing oversight for used nuclear fuel reprocessing facilities in Japan; (2) observe implementation of the material control and accounting program and to conduct safety/risk analyses for the Rokkasho reprocessing plant; and (3) conduct a technical tour of the Tokai reprocessing plant. The visit was coordinated with the Department of Energy (DOE) and funded under the DOE/NRC Interagency Agreement on advanced fuel cycle.

December 17, 2009, Meeting with Transnuclear Inc. to Discuss a Proposed Amendment

On December 17, 2009, the NRC staff from NMSS, Division of Spent Fuel Storage and Transportation, met with Transnuclear Inc. (TN) to discuss a proposed amendment to a Certificate of Compliance for a transportation package used to transport uranium oxide pellets and powder. TN will provide additional drop testing results, which reflect the most damaging configuration of the package and corresponding criticality analyses. TN will submit the proposed amendment by the end of 2009.

avoid statutory and regulatory requirements on safety, the environment and public participation," he said.

Klein and Svinicki said they found Jaczko's arguments "unpersuasive." They said in the majority opinion, "A reader would not know, based on the Chairman's full-throated rhetoric, that the Commission in actuality has acted with great deliberation and transparency in its reviews and actions, and has sought public participation, to ensure that any reinstatement of the Bellefonte Units 1 and 2 construction permits is fully protective of public health and safety and the environment."

The Summer case involved an NRC Atomic Safety and Licensing Board's denials of petitions to intervene in the COL proceeding. Jaczko disagreed with Klein and Svinicki, who said petitioners' arguments about potential aircraft crashes into the new reactors was inadmissible. The order did say the ASLB should reconsider part of one contention, on whether SCE&G considered demand-side savings in its assessment of energy alternatives.

The three commissioners agreed to uphold ASLB rulings in three other proceedings involving potential reactors.

They affirmed an ASLB decision to dismiss three environmental contentions challenging an early site permit for Southern Nuclear Operating Co.'s planned Vogtle-3 and -4. Environmental groups, including the Southern Alliance for Clean Energy, had appealed the ASLB decision to the commission.

In another decision, the commissioners upheld three contentions admitted by an ASLB for a hearing in Progress Energy's application for a COL for two reactors at a green-field site in Levy County, Florida. Commissioners also altered the board's ruling in one contention that said Progress Energy's application did not account for the disposal of low-level radioactive waste after the disposal facility in Barnwell, South Carolina was closed to LLW generators in most states, including Florida. Commissioners excluded a reference in the ruling to Greater-than-Class C waste products, saying they are addressed elsewhere in the application.

Finally, the commissioners affirmed an ASLB's denial of a petitioner's leave to intervene and request a hearing in a proceeding on PPL's COL application for a nuclear unit at the Bell Bend site, adjacent to the Susquehanna nuclear power plant in Pennsylvania. The commissioners said the ASLB ruled correctly that the petitioner had not demonstrated a sufficient connection with the proposed license to warrant standing to intervene in the proceeding.

The orders were released late January 7.

—Tom Harrison and William Freebairn, Washington

Sudan Act does not bar AES from loan guarantee, DOE says

DOE's general counsel said December 28 that Areva Enrichment Services' parent company's business interests in Sudan do not affect its eligibility for a federal loan guarantee that would help support construction of the proposed Eagle Rock enrichment facility in Idaho.

Those interests came under fire from Republican Representative Jean Schmidt, who represents the district in Ohio where AES competitor USEC plans to build its American Centrifuge Plant. USEC and AES have each applied for the entire \$2 billion in DOE loan guarantees for front-end projects to help them secure construction financing. AES is a US subsidiary of the French company Areva.

DOE's inspector general investigated whether the department's dealings with AES violate the Sudan Accountability and Divestment Act of 2007, which bars the US government from doing business with any company that has investments in Sudan. The inspector general asked DOE's general counsel whether the act barred DOE from considering AES' loan guarantee application.

"The simple answer is no," DOE said in a December 28 posting on the general counsel's web site. "The Act, as passed by Congress, applies only to government procurements. It does not apply to financial assistance programs or loan guarantee programs," it said. DOE added that the act "applies only to the investments of the actual offerers (or contractors) for procurement contracts. It does not apply to the investments of entities related to the applicants. In this case, Areva Enrichment Services has no investments in Sudan. Rather, the parent corporation of Areva Enrichment Services LLC has a 60% interest in a Canadian company. That Canadian company has a 40% interest in a mine in Sudan."

In response to the general counsel position, Barry Bennett, a spokesman for Schmidt said that Schmidt has drafted legislative language "tightly closing these loopholes that the general counsel is claiming." He said the bill would be introduced this week. "We will work to make sure they know what the intent [of the Sudan Act] was. We do not feel this is over," he said January 7.

Separately, Areva spokesman Jarret Adams said last week that negotiations have been completed on an agreement enabling AES to use at its Eagle Rock facility the centrifuge enrichment technology now controlled by Enrichment Technology Co., an Areva-Urenco joint venture that supplies centrifuges to the Georges Besse II enrichment plant under construction in France. Urenco is jointly owned by the governments of the UK, Netherlands and Germany.

The agreement is undergoing the process of approval by the US, the UK, the Netherlands, Germany and France.

—Maureen Conley, Washington

NRC visit to Rokkasho focuses on safeguards, risk assessment

The NRC staff during a December 9-20 visit to Japan visited the Rokkasho reprocessing plant to gain regulatory insights on spent fuel reprocessing, focusing its attention on the application of risk assessment as well as material controls at the facility, staff members said last week.

The staff is studying international reprocessing programs as part of a July 2007 memorandum of understanding with

DOE to exchange technical information on reprocessing (Inside NRC, 22 June '09, 4). DOE and NRC in September 2007 expanded the scope of the work by signing an interagency agreement, or IA, to exchange information that could help NRC license a reprocessing facility.

NRC said in a July 2009 report on its progress on the IA that agency staff would prepare a technical bases document not covered under the IA to support rulemaking for a process to license and regulate commercial reprocessing facilities. NRC is planning to issue in mid-2011 a draft proposed rule on its approach for licensing a reprocessing facility (INRC, 2 March '09, 4). The staff has said industry has indicated it could submit license applications for reprocessing facilities around 2013 or 2014. Daniel Dorman, director of NRC's division of fuel cycle safety and safeguards in the Office of Nuclear Material Safety and Safeguards, said last week the staff is working on the technical bases document.

NRC officials have said the current regulations governing reprocessing facilities in 10 CFR Part 50 are outdated for an industry that has evolved over the years. President Gerald Ford in 1976 decided to abandon commercial reprocessing in the US, citing proliferation concerns. President Jimmy Carter reinforced Ford's decision. The NRC staff in a May 2009 paper, Secy-09-0082, identified at least 14 high-priority "gaps" in existing regulation that must be closed before the agency can develop the regulatory framework to license commercial reprocessing facilities (INRC, 22 June '09, 4).

The trip to Japan was funded under the DOE-NRC interagency agreement program. The staff in February visited the UK's Sellafield reprocessing plant and this year might visit France's La Hague reprocessing facility, Dorman said.

Yawar Faraz, an NRC project manager who participated in the international visits, said last year the trips are designed to gather information and better inform NRC staffers about reprocessing (NE, 10 Aug. '09, 5). He said staffers focus on different topics for each trip. NRC staff during the UK visit paid particular attention to three events at Sellafield that had criticality safety implications.

Faraz said last week that staffers during the Rokkasho visit focused heavily on material control and accounting. He said Japanese regulators and the IAEA perform inspections of the safeguarding process.

Faraz also said the staff discussed what Rokkasho operators are doing to assess risks of potential accidents. The staff also took a technical tour of Japan's Tokai reprocessing plant, where detailed discussions did not take place, he said. The trip to Japan also entailed conducting information exchange activities and discussing regulatory experiences with Japanese regulators, he said.

The staff plans to submit a report to DOE by the end of April on the status of the IA, Faraz said. He said the document will include lessons learned from the visit to Japan. Faraz declined to discuss specific lessons from the Rokkasho visit but said that DOE, NRC and Japanese authorities eventually will determine what information is appropriate for public dissemination.—*Randy Woods, Washington*

International Isotopes seeks license for uranium deconversion facility

On the last day of 2009, International Isotopes filed an application with NRC for a license to build and operate the first commercial uranium deconversion and fluorine extraction processing facility in the US.

The company announced in March that it plans to build the plant in Lea County, New Mexico. Depleted uranium, or DU, tails in the form of uranium hexafluoride will be converted to uranium oxide. The fluorine recovered will be sold.

Steve Laflin, president and CEO of International Isotopes, said in the company's December 31 statement that "the project is on target and on schedule." International Isotopes said it plans to select a "design and build contractor" in 2010 and that it "may initiate some pre-license construction activities" at the site this year, "subject to NRC approval." The schedule "envisages completion of construction by the end of 2012," the company said.

In an interview December 31, Laflin said that, under that timeframe, hot testing would take place in 2012, in time for commercial runs the following year.

NRC has said it will host a public "prelicensing meeting to describe the review process" on January 14 in Hobbs, New Mexico. "The review involves an extensive evaluation of the license application and environmental report" and "consists of a standard twenty month safety review and a twenty-four month environmental review, conducted simultaneously," the agency said in the meeting notice.

International Isotopes said on its web site that it expects DU tails from four uranium enrichment facilities planned to be built in the US — including LES' National Enrichment Facility under construction in Lea County — will provide a market for its deconversion services. "These four facilities combined could produce more than 60 million pounds of depleted uranium hexafluoride" annually, and the new plant "will be sized to provide sufficient processing capacity to support the de-conversion [sic] needs of commercial uranium enrichment producers," it said.

The facility will have an initial capacity of 300 cylinders a year, which equals about 8 million pounds of depleted uranium hexafluoride, Laflin said last month. He said the company may begin work in 2015 to roughly double the facility's capacity. The company said in a December 23 presentation released by NRC that the expansion will be completed in 2016 and will "increase de-conversion capability to meet anticipated demand." It said that "availability" of depleted uranium hexafluoride could increase to more than 2,000 cylinders in 2020.

Laflin has said that "total project costs are expected to reach approximately \$75 million over the next three years, and we are exploring various options of funding the project," which "remains an extremely high priority for the company."

The company said its new plant will provide "a near-term, commercial alternative to continued [depleted urani-