



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

April 23, 1979

Troy B. Conner, Esq.
Attorney for Nuclear Engineering Company
Conner, Moore, and Corber
1747 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

Dear Mr. Conner:

Subject: Sheffield, Illinois, Low-Level Radioactive Waste
Disposal Facility

This letter sets out the agreements reached by the attorneys for and on behalf of the United States Nuclear Regulatory Commission (NRC) and the Nuclear Engineering Company (NECO) with regard to the low-level radioactive waste disposal facility located at Sheffield, Illinois:

1. In any proceeding or action involving the Sheffield site, no actions undertaken by NECO pursuant to this agreement shall be deemed an admission or utilized to show that NECO is an NRC licensee at the Sheffield site, that the NRC otherwise has jurisdiction over NECO with regard to the Sheffield site, that the Order to Show Cause issued by NRC on March 20 is valid, or that NECO's right to institute or defend any action or proceeding before a Federal, State, or local agency or court is in any way barred or limited.
2. As expressly limited by the understandings recited in paragraph 1 above, NECO shall comply with the terms and conditions of NRC license No. 13-10042-01 for the Sheffield site as if it were an NRC licensee. NRC does not interpret the license to call for 24-hour guard service so long as the integrity of the perimeter security fence is maintained in good repair, and NECO personnel are available at the adjacent industrial waste disposal site during normal working hours. NRC will not impose any penalty on NECO for actions taken during the period of this agreement provided NECO acts in accordance with the terms and conditions of such license.

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3. Either party to this agreement may terminate the activities and obligations called for by this agreement upon thirty days notice to respective counsel. This agreement will terminate in any event at the conclusion of the pending NRC administrative proceeding on the Order to Show Cause.
4. This agreement will become effective when NRC receives NECO's written consent to this agreement.

Sincerely,



Stephen F. Eilperin
Solicitor
U.S. Nuclear Regulatory
Commission

Accepted for Nuclear
Engineering Company:



Troy B. Conner, Jr.

Dated: April 23, 1979



THE SENATE
STATE OF NEW YORK
ALBANY 12247

DALE M. VOLKER
58th DISTRICT
ROOM 802 LOB
518-472-2517

DISTRICT OFFICE
4981 BROADWAY
DEPEW, NEW YORK 14043
716-681-3373

March 28, 1979

Mr. Joseph M. Hendries, Chairman
Nuclear Regulatory Commission
Washington, D.C. 20055

Dear Chairman Hendries:

I have been advised that the Nuclear Regulatory Commission (NRC) staff recently informed Nuclear Engineering Company, Inc. (NECO) that only the NRC can terminate the company's license to operate a low level radioactive waste disposal site at Sheffield, Illinois.

As you know, Nuclear Fuel Services, Inc. (NFS) and the NYS Energy Research and Development Authority (NYSERDA) received a provisional license from a predecessor agency of the NRC to operate a nuclear reprocessing plant at West Valley, New York. Further, NFS has notified NYSERDA that it intends to withdraw from West Valley and turn over its responsibility for the facility to NYSERDA at the end of 1980.

I completely agree with the NRC staff's position that only the NRC has the ability to terminate an outstanding operating license. Has the Commission itself adopted the staff position? If so, am I right in concluding that notwithstanding the intention of Nuclear Fuel Services to withdraw from the facility at West Valley, only the NRC can relieve NFS from its existing responsibility as a co-licensee of assuring that the public health and safety are protected? Further, is NFS's responsibility independent of, and addition to, any responsibility NYSERDA may have to protect public health and safety as a co-licensee? With 600,000 gallons of high level radioactive waste, 170 tons of spent fuel and significant quantities of low level radioactive waste stored at West Valley, the answers to these questions are of extreme importance to Western New York residents.

The U.S. Department of Energy estimates that the cost of cleaning up West Valley could run into the hundreds of millions of dollars. If true, the costs would easily overwhelm the limited resources of NYSERDA and possibly be beyond even the State's ability to pay. In light of the huge potential monetary liability, does it make any sense, legally or otherwise, to let any West Valley licensee walk away from

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an existing responsibility to protect the public health and safety? I think not and would hope that the Commission shares my view.

I would very much appreciate hearing from you relating to the above questions at your earliest convenience.

Yours truly,



Dale M. Volker
Chairman, NYS Senate Energy Committee

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CHAIRMAN

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

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May 23, 1979

The Honorable Dale M. Volker
New York Senate
Albany, New York 12247

Dear Mr. Volker:

Thank you for your letter of March 28, 1979 regarding the license responsibilities of Nuclear Fuel Services, Inc. (NFS) and the New York State Energy Research and Development Authority (NYSERDA), as co-licenses of the West Valley nuclear fuel reprocessing facility. Inasmuch as your letter raises concerns in the context of Nuclear Engineering Company's (NECO) Sheffield, Illinois plant which involves a proceeding, aspects of which are presently before the Commission, it would be inappropriate for me to comment on the merits of your questions. In this regard, I have referred your letter to Mr. William Dircks, Director of the Office of Nuclear Material Safety and Safeguards, for further reply.

The question of the ability of a licensee to unilaterally terminate a license is currently before the Commission for resolution on the basis of an Order to Show Cause issued by the Staff to NECO on March 20, 1979. NECO, in response to that Order, filed an emergency motion with us requesting that the Order be rescinded.

Although we had requested that the U.S. Department of Justice bring suit on behalf of the Commission seeking preliminary injunctive relief, on April 23, 1979, the matter was settled prior to filing of the action. A copy of the settlement agreement between the Commission and NECO is enclosed.

I can be of any further assistance, please feel free to call upon me.

Sincerely,

Joseph M. Hendrie
Joseph M. Hendrie

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Enclosure: Settlement Agreement

cc w/o encl: NFS service list