

March 13, 1980

Director  
 Division of Rules and Records  
 U.S. Nuclear Regulatory Commission  
 Washington, D.C. 20555

Re: Freedom of Information Request

Dear Sir/Madam:

Pursuant to the Freedom of Information Act, 5 U.S.C. 552, we hereby request copies of the following:

- a. letter application dated August 27, 1979, from NL Industries, 1130 Central Avenue, Albany, N.Y. to W. Dircks, Director, Dept of Nuclear Material Safety and Safeguards, US NRC, Docket No. 110-695, including the proposed routing in the U.S. of the proposed spent fuel shipments,
- b. resubmittal letter dated Sept. 27, 1979 by George L Stukenbroeker, Manager, Nuclear Transportation, NL Industries, including enclosure with route,
- c. letter by George McCorkle, Chief, Physical Security Licensing Branch, Division of Safeguards, NWSS, US NRC, to GL Stukenbroeker, NL Industries, dated Dec. 5, 1979, including strip map, and
- d. any more recent information concerning the route and Curie content of the proposed Canadian spent fuel shipments, and the date and time of day when this information becomes available to the NRC.

## BASIS FOR REQUEST:

The Sierra Club makes this request on safety grounds, to ensure that the health and safety of the public and our members is protected. Since testing conditions for shipping casks do not provide assurance that an accident with consequent release of radioactivity cannot take place, local communities must be prepared in case of an accident. In order to determine which communities are impacted and to prepare accordingly, it is necessary to know the route, time of day and contents of the shipment.

Without entering into a detailed discussion of shipping cask safety, the Club is aware that the casks are tested for a 30 foot drop, 40 inch puncture drop and fire of  $\frac{1}{2}$  hour duration at 1475°F. It is clear to us that certain accident environments can be more severe. A 30 foot drop onto an unyielding surface corresponds to a velocity of 30 mph, a speed greatly exceeded on the highway. An accident can cause a diesel fire at greater than 1475°F and for longer than  $\frac{1}{2}$  hour. Local communities would be called on to provide fire assistance. It often takes longer than  $\frac{1}{2}$  hour to assemble a volunteer fire crew, reach the scene of an accident and locate a water supply. From our perspective, either the accident environment must be controlled by speed and hazard limitations to correspond to the test conditions or the casks must be built to withstand potential accident conditions. Since this is not being done, local communities must be prepared in case of the release of radioactivity. The impacted communities will be known by release of the above information.

To our knowledge, state agencies such as the state DOT and Department of Health have not been informed and local communities have not been advised they are along the route. It is our understanding that the State Police have been informed as to route but this is insufficient since local services such as fire, ambulance may be required, and in the case of a severe accident involving a large release of radioactivity, evacuation of local residents may be necessary. Given the record of highway accidents, there is the clear potential for such an accident. The matter of economic liability is not even addressed in the application or approval by the NRC.

#### ARGUMENTS FAVORING RELEASE OF INFORMATION:

1. The NRC has argued that security considerations necessitate maintaining confidentiality of transportation routes. The Staff believes that a balance must be struck between the rights of citizens in a democratic society to know v. the need to protect against sabotage, though the staff is presently engaged in an internal staff review of whether information on routes should be made available to the public. We question the motives of the NRC staff in employing the sabotage issue; we believe it is a way of avoiding a confrontation with local citizens concerned with health and safety matters. As the staff may be aware, there is a citizen network of local groups who would know of the movement of a shipping cask within an hour of the Chalk River facility. There are a limited number of north-south routes through the State of New York through Ogdensburg.

There is precedent for releasing the information. On February 29, the NRC published information on three alternate routes about the city of Charlotte, North Carolina. As Chairman of the hearing board Marshall Miller said in the case of Duke Power's shipments from Oconee to Maguire reactors, the movement of a shipping cask can be likened to an "elephant tiptoeing thru tulips". The issue is not one of maintaining secrecy, but of advance emergency planning by communities and health and safety.

2. There is no basis in law for denying this request. Exemption #4, previously employed by NRC staff, "trade secrets and commercial or financial information obtained from a person and privileged or confidential", cannot be used since the information is neither a trade secret nor commercial or financial information. It is not a trade secret and would not harm the financial or commercial interests of NL Industries. The NRC, through 10 CFR Part 2.790(d), has interpreted "commercial or financial information" to be a licensee's procedures for safeguarding licensed special nuclear material. We believe this is far from the original intent of Congress under the Atomic Energy Act of 1954, as amended, and could not be sustained in a court of law.

The Sierra Club is a national environmental organization with over 10,000 members in New York State, many living and working in areas potentially impacted by a release of radioactivity from a spent fuel shipping accident. The Sierra Club Radioactive Waste Campaign is an integral component of the Club, approved by the Board of Directors, which educates and organizes citizens on the hazards of radioactive waste.

It is our understanding that you have ten working days to grant our request. Thank you for your prompt attention to this matter.

cc: Kasun Blauner  
Burnett Sage  
Dirck's Lippes  
Galac  
Pohl Miksic  
Hillar Diehl

Very truly yours,

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