

HARMON, CURRAN, GALLAGHER & SPIELBERG

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	FOIA:	
	Support:	

DIANE CURRAN
6935 Laurel Avenue Suite 204
Takoma Park, MD 20912
TELEPHONE (301) 270-5518 FAX (301) 270-3029

November 4, 1993

→ File TELEPHONE (202) 328-3500
Copies to: FAX (202) 328-6918

*cc: R/A R-4
OT R-4
C.A. Morris R.
for info
OKAM*

BY FAX
Ben B. Hayes, Director
Office of Investigations
U.S. Nuclear Regulatory Commission
11555 Rockville Pike
Rockville, MD 20850

Dear Mr. Hayes:

On September 28, 1993, on behalf of Native Americans for a Clean Environment ("NACE"), I wrote to you requesting an investigation of apparent wrongdoing by Sequoyah Fuels Corporation during and after the accident at the SFC plant in November of 1992. The instances of wrongdoing are described in a report which was enclosed with my letter: Silent Sirens: Report of Native Americans for a Clean Environment's Investigation into the Ineffectiveness of Emergency Planning and Federal Oversight to Prevent or Protect the Public from the November 17, 1992, Accident at the Sequoyah Fuels Corporation Uranium Processing Facility in Gore, Oklahoma (September 28, 1993).

As you requested in our telephone conversation this morning, this letter provides a summary listing of the instances of apparent wrongdoing which we have requested your office to investigate. They are:

- 1) During the accident, SFC officials knew that toxic nitrogen dioxide (NO2) gas was leaving the plant, but they failed to sound any sirens. As a result, workers at a nearby tree farm and children playing on a local school yard were exposed to the fumes. Thus, SFC knowingly violated its strong and unequivocal commitments to the U.S. Congress and the NRC, following the 1986 accident, that the sirens would be sounded during any emergency that could affect the offsite public. Silent Sirens report at 2, 10-12.
- 2) NRC inspection reports say that the control room was occupied during the accident; thus, we assume this is what SFC told the NRC inspectors. NACE obtained documents through the

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Freedom of Information Act which indicate that in fact the control room was evacuated. Silent Sirens report at 12-13. If indeed the control room was evacuated, this has great safety significance, because it automatically would have required the classification of the accident as a General Emergency, for which the offsite sirens must be sounded. Instead, SFC classified the accident as a Site Area Emergency, for which sounding of the sirens is not required. As a result, members of the offsite public were exposed to toxic nitrogen dioxide gas without any warning from SFC. Did SFC lie to the NRC about the evacuation of the control room in order to gain NRC approval of SFC's classification of the accident as a Site Area Emergency?

3) It appears that SFC failed to notify offsite authorities of the accident through the county police dispatcher, as required by the Contingency Plan. The dispatcher's log contains no record of any contacts with SFC on the morning of the accident. But NACE has obtained two documents which raise the concern that SFC may have attempted to create a false record that contact with the dispatcher was made: handwritten notes on SFC's Contingency Plan implementing procedures which state that the Sheriff's office was notified at 9:30; and notes on the Sequoyah County emergency plan -- which SFC took from the Sheriff's office, without permission, in March of 1993 -- which state that notification was made at 9:20. Silent Sirens report at 16.

4) Did SFC stop answering the telephone during the accident? Silent Sirens report at page 17. This refusal to take calls would be particularly egregious, since SFC made no affirmative effort to communicate with the offsite public, other than to send two vice presidents to the mayor of Gore's office.

5) SFC's communication and notification equipment was in such a state of disrepair during the accident that we believe it shows reckless disregard for the safety of SFC employees and the public. Silent Sirens report at 21-22.

6) John Ellis, who was vice president of SFC at the time of the accident, was the principal onsite emergency response director designated by the Contingency Plan. Yet, according to an NRC inspector, he received no emergency training, in violation of the Contingency Plan. Silent Sirens report at 25. Mr. Ellis left the plant during the accident, along with another vice president. We believe that it was not only inappropriate that two high-level officials left the site during the accident, but it

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also raises the concern that Mr. Ellis may have left in order to avoid questions as to whether he had been properly trained to assume his responsibility as onsite emergency response director.

7) SFC knew before the November 1992 accident occurred that the control room was not sealed -- a violation of its license and prior commitments to Congress -- but it did nothing about it. Silent Sirens report at 14-15.

8) Actions by SFC in March of 1993 raise questions about whether SFC had kept offsite officials up to date with current revisions of the Contingency Plan, and, if not, whether SFC later tried to suppress evidence that the offsite officials did not have the correct revision to the plan when the accident happened. Silent Sirens report at 8.

9) The NRC's inspection report raises questions about the manner in which SFC attempted to monitor the concentration of the NO₂ plume after it left the site. Did SFC purposely avoid sampling the plume at its most concentrated locations? Silent Sirens report at 19-21.

10) SFC repeatedly and knowingly made false public statements that there were no injuries as a result of the accident. Silent Sirens report at 17-18. These false statements could have influenced individuals who were exposed to the fumes not to seek necessary treatment.

11) SFC also instructed a local hospital not to treat a tree farm worker who came to the emergency room complaining of burning eyes and itching skin as a result of his exposure to the NO₂ plume. SFC has a written agreement with this hospital to treat offsite injured individuals, and supposedly has trained hospital employees regarding proper treatment for chemical injuries from the plant. Not only was SFC's instruction to the hospital wrong, but it appears to reflect undue influence on the conduct of a public health facility.

12) SFC has not fulfilled its commitment to Congress or the terms of its license with respect to training of offsite health officials. Moreover, SFC submitted to the NRC, as part of its 1990 license renewal application, a letter of agreement which falsely indicates that SFC has conducted annual training at the Sparks Regional Medical Center, when in fact no training has been given since 1986. Silent Sirens report at 27.

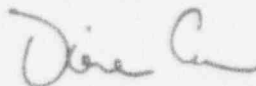
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I hope this summary is helpful to you. Please contact me if you have any questions. I would also appreciate it if you would inform me as to whether OI intends to proceed with an investigation.

In addition, please inform me of the names of the members of the Region IV Allegations Review Board which is reviewing our request.

Sincerely,



Diane Curran
Counsel to NACE

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U.S. NRC

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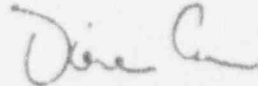
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In addition, please inform me of the names of the members of the Region IV Allegations Review Board which is reviewing our request.

Sincerely,



Diane Curran
Counsel to NACE

November 12, 1993

CHRONOLOGY OF OI ACTIVITY
REGARDING THE CURRAN LETTER

29 SEPT 93 OI:RIV received letter dated 28 SEPT 93
from OI:HQS (Hayes in RIV)

4 OCT 93 Informal conversation with Vasquez
regarding 17 NOV 92 event, no known
wrongdoing

21 OCT 93 Discussed 28 Sept 93 letter with
Murphy, related that OI:RIV had talked with
Vasquez.-no wrongdoing issues cited.
Murphy to have Hayes call Curran. OI:RIV
request that info go to ARP.

21 OCT 93 Scheduled ARP for 25 OCT 93

21 OCT 93 Discussed letter with Cain and Kazner
1-event subject to six week AIT
2-SFC closed for six weeks
3-Several public mtgs held
4-Enforcement conference in March 93
5-Several violations cited
6-Civil Penalty issued-18,000
7-SFC closed
Cain/Kazner/Wise agreed to ARP

25 OCT 93 ARP-no apparent wrongdoing issues.

1 NOV 93 RE-ARP-DRSS will review 28 SEPT 93 letter
and determine if new safety issues exist.

5 NOV 93 DRSS request OI obtain copies of the
attachments to Silent Sirens.

8 NOV 93 OI/RIV staff meet to discuss 28 Sept 93
letter-prepare response to cong.inquiries.

ARP -DRSS to review specific issues in 4
NOV 94 letter.Will advise OI of potential
wrongdoing.

9 NOV 93 OI received attachments to Silent Sirens

DRSS preparing draft chronology-will
respond to each allegation.

OI provides attachments for Silent Sirens
to DRSS.

FROM NRC RIU ARL, TX. 11/12/93 15:21 P. 3 TOTAL P. 3
808 P03

12 NOV 93

DI received copy of letter to Chairman
from Cong. Synar. Provided to DRSS.