

78 Elmwood Avenue • Buffalo, New York 14201 (716) 884-1000
River Road, Columbia, NJ 07832 (201) 841-9529

DOCKETED
USNRC

Harold Denton, Director
Office of Nuclear Reactor Regulation
John G. Davis, Director
Office of Nuclear Material Safety and Safeguards
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

83 AUG 29 11:54

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

Lic. No. CSF-1
Docket No. 50-201

Gentlemen:

In order to ship irradiated nuclear fuel from the former West Valley reprocessing facility back to the respective utilities we are of the opinion that either the respective utility licenses or license no. CSF-1 must be amended. Under license no. CSF-1, issued April 19, 1966 (attached), the Nuclear Fuel Services reprocessing plant was licensed to receive and process irradiated nuclear fuel and to dispose of nuclear waste, but not to ship irradiated nuclear fuel. Of course, the utilities were never licensed to package and transport nuclear fuel from the West Valley facility. Important safety, environmental and policy issues need to be resolved before these shipments take place. We request that proper and timely notice of a pending license amendment appear in the Federal Register and that public and state representatives be granted the opportunity to intervene.

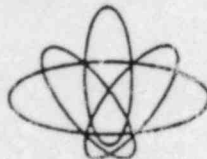
LICENSING AMENDMENT REQUIRED

IF NYSERDA IS THE LICENSEE:

It is our understanding that either the utilities, NYSERDA or DOE will be responsible for the shipments. If NYSERDA is to be the licensee, we are of the opinion that a license amendment is required before the shipments can proceed. Under Section 2 of license no. CSF-1, NYSERDA and NFS were licensed to operate the facility as a production facility, to receive, possess and use special, byproduct and and source material from irradiated nuclear fuel and to bury solid radioactive waste. A staff safety evaluation, performed in 1977, approved the safe shutdown status of the facility. The proposed actions call for loading and transporting nuclear fuel stored at West Valley to the respective utility owners. No safety evaluation has been performed by NFS, NYSERDA or the NRC for shipping nuclear fuel from the West Valley facility. Important safety, environmental and policy questions need to be addressed by the staff and an Atomic Safety and Licensing Board.

Under licensing change #31 to CSF-1, DOE took possession of those parts of the West Valley site needed to implement the West Valley Demonstration Project Act. An agreement between NYSERDA and DOE has NYSERDA retaining responsibility for the state-licensed burial ground and the nuclear fuel. NYSERDA presently has no license to ship nuclear fuel and DOE has no Congressional authority to ship this nuclear fuel. Further, this fuel is commercial fuel. It would establish a poor precedent to have DOE begin to take over the functions of commerc-

B308300449 830624
PDR ADOCK 05000201
P



sierra club
radioactive waste
campaign

D503

August 24, 1983

ial licensees.

NYSERDA presently has no license to ship nuclear fuel. A license amendment to CSF-1 is required if NYSERDA is to become the licensee for these shipments.

The technical qualifications of NYSERDA for assuming operational responsibility for the site have never been ascertained. In an opinion by Mr. Davis regarding licensing change no. 32 which transferred operational responsibility for the site from NFS to NYSERDA, the argument was made that NYSERDA would have no effective operational responsibility during the period while DOE was on the site. For this reason, NYSERDA's technical qualifications to operate the facility were never evaluated. If NYSERDA is to ship nuclear fuel, these qualifications must be determined. If NYSERDA is to subcontract this work, the qualifications of the subcontractor and the qualifications of NYSERDA to oversee this work must be ascertained.

We might say parenthetically that the U.S. District Court agreement, Exhibit B, February 1982, between NFS and NYSERDA states that NFS has "responsibility for the removal and transportation from the Center and ultimate disposition of" the spent fuel at West Valley. However, the NFS license, under change #32, terminates NFS licensing responsibility; NFS has only title to the fuel. NFS may have financial responsibility, but it cannot be the licensee for these return shipments unless licensing change #32 were amended. As you are aware, the Club opposed licensing change #32 as precipitous.

Tied to the question of the licensee for the proposed shipments is the question of indemnification. According to licensing change #32, the West Valley fuel building is not indemnified under Price-Anderson insurance. Supposedly it is covered under DOE's insurance, but it is not clear that DOE's policy covers these nuclear fuel shipments and whether they are part of the West Valley Demonstration Project.

IF THE UTILITIES ARE THE LICENSEES:

Under 10 CFR Part 50 and 10 CFR Part 71.12, the utilities are authorized to load irradiated fuel at their respective reactors and to transport irradiated fuel in DOT-approved packaging. If the utilities or their representatives request permission, or assume responsibility without requesting permission from the NRC, we are of the opinion this is a strained definition of the utility license under Parts 50 or 71.12. The utilities may know something about operating a reactor, but they have never been licensed to operate the West Valley facility. If NRC inspectors determined non-compliance items, would the NRC cite a utility over 700 miles away? The West Valley fuel building has been idle for eight years now. Would the utilities file a safety evaluation for the West Valley facility? Would the technical qualifications of the licensees for operating the West Valley facility be adjudged? Would the utilities be properly indemnified? We would expect the above issues and the policy and safety issues mentioned below to be resolved in a proceeding, properly noticed in the Federal Register, in which interested and affected parties could present their views.

August 24, 1983

UNREVIEWED SAFETY QUESTIONS

No safety evaluation has been performed for shipments from the West Valley facility. The Staff has never produced a Safety Evaluation Report. Further, the NFS facility has now lied dormant for eight years. It is not clear that the equipment in the fuel receiving and storage area is safe for use. This must be reviewed by staff. NYSEDA or the utilities should file a safety evaluation and the NRC Staff should prepare a Safety Analysis Report. The use of the TN-9 cask at the fuel building is an unreviewed safety question. As you may be aware, Commonwealth Edison wishes to use the 35 ton TN-9 cask for Dresden-1 fuel. The TN-9 cask may be too heavy for local bridges. If the rail spur into the fuel receiving and storage building is to be used, we have serious questions about its safety since the line has deteriorated badly. The interaction between DOE operations and irradiated nuclear fuel movement must be clarified.

POLICY QUESTIONS

1. As the NRC is well aware, the need to ship this irradiated nuclear fuel back to the utilities is open to question. NYSEDA needs to move fuel out of the West Valley pool by September 1985 to allegedly make room for DOE operations, but NYSEDA has no need to move this fuel from the West Valley site. This fuel could well remain at the site in dry storage until a federal repository is operable.

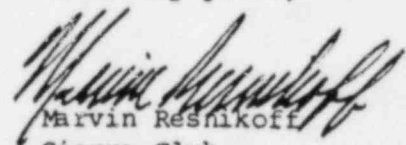
2. This nuclear fuel would be returned to the utilities for temporary storage, then perhaps to a federal away-from-reactor storage facility for temporary storage before moving to a federal repository. This is inconsistent with Congressional intent under the Nuclear Waste Policy Act of 1982, to minimize transportation and to employ an AFR as a last resort facility. Since the number of transportation accidents is directly proportional to the number of miles driven, moving this nuclear fuel from one temporary location to another simply increases the chance of an accident.

3. As you are aware, the NRC has never prepared a general environmental impact statement on nuclear transportation, including a discussion of accidents in rural areas, and has never prepared an EIS on the West Valley facility, either operating or standby. The NRC documents are environmental statements or environmental assessments, but not an EIS under NEPA. The NRC has also prepared Table S-4 which is inserted into a reactor EIS, but Table S-4 is not an EIS either.

Citizens and state and local officials all along the proposed transportation routes are concerned and alarmed at the proposed shipments. These shipments are hazardous and unnecessary. The publicly responsible course is to require any prospective licensee to submit a license amendment, safety evaluation and reports which address the issues raised here. Please inform us of your decision in this matter.

cc: E. Blauner	G. Abrams, Esq.	J. Kemp
G. Coan	E. Bialik, Esq.	S. Lundine
M. DuBois	R. Cotter	D. Moynihan
L. Finaldi	M. Cuomo	R. Ottinger
H. Fox, Esq.	P. Gitlen, Esq.	T. Weiss
W. Liebold	D. Muxhnicki, Esq.	F. Millar
R. Lippes, Esq.	P. Wollman, Esq.	C. Mongerson
V. Parker, Esq.		A.T. Clark, NRC
P. Weinberg, Esq.		J. Klusik, NRC
P. Woywod		✓ Secretary, NRC

Sincerely yours,


Marvin Resnikoff
Sierra Club
River Road
Columbia, NJ 07832