



UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before

John H. Frye, III
Administrative Judge

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USNRC

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In the Matter of:

SEQUOYAH FUELS CORPORATION

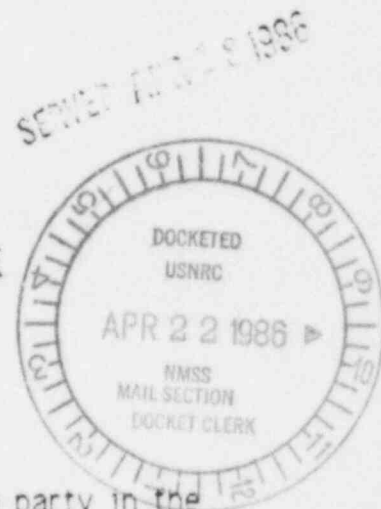
(Sequoyah Facility)

Docket No. 40-8027

ASLBP No. 85-513-03-MLA

ENVIRONMENTAL ACTION

MOTION FOR LEAVE TO FILE PETITION TO INTERVENE
OUT OF TIME



Introduction

Petitioner, Environmental Action, seeks admission as a party in the above-captioned proceeding past the expiration of the filing period established by Administrative Judge John H. Frye, III in the Notice of Informal Hearing and Opportunity to Become a Party, dated August 8, 1985. Extraordinary events in the operation of the Sequoyah Fuels Corporation (SFC) Sequoyah Facility which occurred after the expiration of the filing period give us cause to seek this leave under 10 C.F.R. 2.714(a)(1).

The regulation cited above sets forth five factors that must be balanced by the presiding officer in his determination to grant this motion. We address each of these factors as they appear in the regulations.

i) On January 4, 1986, an accident occurred at SFC's Sequoyah Facility which killed one man, contaminated 115 other persons and spread uranium and toxic chemicals over private property as far as 18 miles from the plant. Before this event, the public at large could not have understood nor anticipated the catastrophic potential for injury posed by negligence or recklessness in the operation of the Sequoyah Facility. Further, the long-term implications to the public health and safety resulting from the contamination caused that day was not known until recent government disclosures that agricultural products grown in the affected area contain measurable levels of uranium (NRC initial report released April 1, 1986), and that children in the vicinity of the plant have measurable levels of uranium in their urine.

The proposed facility would possess the same capacity for catastrophic occurrence. The same material will be handled in the same sort of container and placed into a similar steam chest for heating.

ii) Entrance as a party to these proceedings is the method created by act of Congress for affected citizens to participate and is the sole and proper means by which petitioner's interests may be protected.

iii) The petitioner, Environmental Action, is an association of diverse individuals, many of whom have experience in matters before the NRC. They have sought and obtained the opinions of credentialed experts in environmental, radiological and nuclear matters regarding the Sequoyah Facility. The petitioner raises grave and substantive contentions that fall within the scope of this proceeding. The greater public interest can only be enhanced by a full and true disclosure of relevant facts from adversarial parties. Finally, since NRC staff has declined to participate in these proceedings there exists an even greater need for the participation of

affected parties.

iv) The petitioner is an association which is discrete from all other intervening parties, with its own legal theory and perspective. Environmental Action's contentions differ from other intervenors and represent emphasis and priorities that are uniquely ours.

v) Granting petitioner's motion cannot delay the proceedings since they have not yet begun nor has a schedule for those proceedings been set. Nor will granting petitioner's motion prejudice the applicant's amendment request by unreasonably broadening the issues since SFC will retain ample time to prepare and respond to petitioner's contentions and since the determination of the admissibility of those issues is a matter to be duly determined by the presiding officer.

Standing

Environmental Action should be granted standing in these proceedings since members of Environmental Action possess personal and property interests required under 42 U.S.C.A. 2239(a) which would be directly and seriously affected by the proposed expansion of the Sequoyah Facility.

The attached affidavits attest that Environmental Action members live and work in the area surrounding the Sequoyah Facility, that the health and safety of they and their families would be adversely affected by even "normal" operations of the proposed facility and might be catastrophically affected by an accident, that the value of their property could be affected, and that their right to enjoy the area's beautiful environment and waterways without fear of irradiation and contamination will be abridged by the likely release of toxic and radioactive substances from the facility.

The granting of the requested license amendment would adversely affect petitioner member's interests by 1) exposing them to the risks of catastrophic injury from a major accident at the facility which petitioner will demonstrate to be a credible possibility, 2) by exposing them to the ongoing degradation of their environment with radioactive and toxic contaminants above federal permissible limits which SFC's past operating record assures us will occur repeatedly, and 3) by increasing their risk for injury from the existing facility by a) spreading key personnel too thin, and, b) by assuring the reckless and negligent management of SFC that NRC will allow them to operate and even expand on a business-as-usual basis.

Hearing Procedures

In its order of July 25, 1985, the Commission set forth an informal hearing process based on its conclusion that there existed no cause to exercise the Agency's discretion to institute formal hearings under the public interest standard of 10 C.F.R. 2.104(a). The Commission did, however, entrust the presiding officer with broad discretion in the conduct and rules for this proceeding. Environmental Action believes that the Commission erred in its conclusion that the public interest standard did not compel full, adjudicatory hearings at that time. Furthermore, the events that have transpired at the Sequoyah Facility since the Commission made that finding substantively and materially alter the facts that must be weighed within the public interest standard. A facility considered to be benign and possessing little consequence to the public safety has suffered an accident that killed one person and injured more innocent members of the public than any other accident in the history of the nuclear industry.

Therefore, Environmental Action requests the presiding officer to amend the procedural rules established in his order dated August 8, 1985 in the interest of developing a full and reliable record upon which to base his decision.

Environmental Action is unable to address sufficiently several issues within the scope of these proceedings because the documentation required is in the sole possession of SFC and its parent company Kerr-McGee or the NRC. The documents needed go directly to the questions of the adequacy of SFC's employee training programs and philosophy, the competence of SFC management to operate an ultra-hazardous nuclear facility in compliance with federal operating procedures, and the integrity of SFC management in reporting facts material to public authorities in the dispatch of their duty to protect the public safety and welfare.

Specifically, Environmental Action requests the presiding officer to direct SFC and Kerr-McGee and the NRC to make available for inspection and copying:

- 1) Any reports, memoranda, correspondence or minutes of meetings issued by or in the possession of the Director, Nuclear Compliance regarding audits or inspections of the Sequoyah facility.

- 2) Any reports, memoranda, correspondence or minutes of meetings issued by or in the possession of the Manager, Sequoyah Facility and the Manager of Production regarding compliance with NRC or SFC operating procedures.

- 3) Any reports, memoranda, correspondence or minutes of meetings issued by or in the possession of the Manager, Sequoyah Facility, the Manager of Production or the Manager of Health Physics and Industrial Safety regarding training or notification of supervisors or operating

personnel in operating procedures , industrial or radiological safety, including the minutes of shift training and safety meetings.

4) Any reports, memoranda, correspondence or minutes of meetings issued by or in the possession of NRC Office of Investigations, the Augmented Investigation Team or any Interagency Task Force regarding either training, procedural compliance or contemplated enforcement action regarding the Sequoyah facility.

5) Any reports, memoranda , correspondence or minutes of meetings issued by or in the possession of the above mentioned SFC officials or the NRC regarding when it was known that an off-site radiological emergency existed or had occurred, or which deal with the public dissemination of information regarding contamination off-site or on-site and the extent of that contamination, and communications between SFC or Kerr-McGee and the Oklahoma Department of Health, county health officials or local authorities regarding off-site contamination or public exposure.

Since documents and investigations regarding the January 4th accident are both germane and essential to a careful consideration of these issues, it is necessary that the proceedings be held in abeyance until these investigations are complete and their findings published.

Further, we request ample opportunity after these items are made available to examine these documents before filing detailed amended contentions. We recommend a thirty (30) day period.

Finally, since the potential for catastrophic accident would be present in the new facility as proposed, it would best serve the public interest if parties have the opportunity to file rebuttal and response briefs in order to develop a complete and factually accurate record.

Contentions

In Chapter 2 of the proposed license amendment, SFC proposes a personnel and administrative organization that ties the UF6-UF4 plant to the existing conversion plant by borrowing key personnel from the conversion plant to oversee operation of the UF6-UF4 plant on top of their existing burden of responsibilities. The proposed license amendment incorporates the provisions of the Sequoyah Conversion Facility License SUB-1010 license renewal application (1985). The organizational theory of SFC's license amendment is grossly deficient in two ways:

First, it assumes the existing management and supervisory personnel have idle time in which they can devote their full attentions to the safe and proper operation of the UF6-UF4 facility. The clear fallacy of SFC's proposal is demonstrated by their assertion that, since the UF6-UF4 plant will be operationally separate from the conversion plant, that unusual occurrences in the conversion plant which require its shut-down will not interfere with the operation of the UF6-UF4 facility. It is precisely at such times as abnormal occurrences, investigations and corrective operations that key personnel will be most consumed with their responsibilities there and unable to devote their necessary attentions to the safe and proper operation of the proposed facility.

Second, it assumes the existing management and supervisory personnel possess the requisite competence and character, an assumption that recent events demonstrate to be false. Specifically:

Training

By the joint admission of NRC and SFC the root cause of the tragic January 4th accident was improper and inadequate training of operating personnel. The license amendment for the UF6-UF4 plant contains not a single mention of this fundamental element in the safe and proper operation of an ultra-hazardous nuclear facility. In SUB-1010 license renewal application (1985), the training of operational and maintenance personnel is described as having four components: 1) radiation safety, 2) plant operations, 3) equipment operation, and 4) emergency procedures (Chapter 2.6). Of at least two of these aspects (2&4) plant personnel were shown to have been inadequately prepared by the January 4th accident.

The direct cause of the tank rupture was a dangerous venting procedure that had been outlawed by NRC regulation several years prior to this event, yet SFC management had been grossly negligent in their obligation to instruct plant workers in this procedure change. The practise of heating overfilled vessels was not uncommon and occurred on several separate occasions with the knowledge of line management personnel who would also be responsible for operational safety in the proposed facility.

On paper, SFC's training program may appear impressive but in practise the margin of safety that it provides for plant personnel and the public has been shown to be paper thin. Chapter 2.6, paragraph 4 asserts that "the Facility Manager or his designate (Process Engineering Manager, or Production Manager) discusses with the employee the importance of rules pertaining to radiation and industrial safety". Yet the NRC investigation of the January 4th accident (NUREG 1179 at 3-13) states that supervisors provided new workers with an informal orientation and then on-the-job instruction from other production workers provided the

balance of their training.

In Chapter 2.7, the responsibility for formulating, developing and maintaining the detailed operating procedures based on approved criteria and standards falls upon the Manager for Production with review by the RSO and the Manager, Sequoyah Facility. These men, however, failed to communicate these procedures to workers, or even line management, (assistant shift supervisors) in any conscious, systematic fashion.

Chapter 2.8 identifies the Director, Regulatory Compliance as the person responsible for inspecting the Sequoyah Facility to ensure that actual daily plant operations were in compliance with federal regulations in the area of plant safety. On January 4th, his performance was demonstrated to be inadequate and negligent.

"The mechanism for training personnel is found to be weak in that there has been no formalized plan or procedure for accomplishing this task, and supervisors have been left to their own devices to see that their workers are made aware of procedure contents." (NUREG-1179 at 3-13). The educational backgrounds of the shift supervisors are described in Chapter 11 of SUB-1010 license renewal application (1985). Four are high school graduates. One completed a single year of college. None of them are qualified to devise a program for worker education in the handling of ultra-hazardous and volatile materials, yet these are the men SFC management entrusted with that sophisticated task.

All of these persons are identified in SFC's license amendment as being the key administrative and supervisory personnel responsible for the operation of SFC's proposed UF6-UF4 plant. The past record of these individuals clearly indicates that that they do not possess a rudimentary appreciation for the gravity of their responsibilities and that, therefore,

they have been, and will continue to be, negligent, incompetent and reckless. This licensing board must, therefore, disallow their association with any future facility licensed by the NRC.

Radiation Protection

As in Chapter 2, the license amendment request incorporates the radiation protection conditions in SUB-1010 license renewal application (1985), requiring us to call into question the provisions of that document.

SFC has committed a plan to paper that appears far more comprehensive and effective than it is in practice. Once again, it is the manner in which the plan is implemented by management and supervisory personnel that lies at the heart of a dismal operational record of air and surface contamination.

At Chapter 3.2.2, SFC asserts that 1) the containment system is designed to prevent the release of radioactive materials which could become airborne, 2) additional controls are provided to transport dust from potential leakage points to air cleaning systems, and 3) buildings are ventilated to maintain breathing air at levels as low as reasonably attainable. According to the proposed license amendment these are the conditions that would apply to the proposed facility.

However, the operating experience of the Sequoyah Facility clearly indicates that these conditions are far from attained. During 1980 there were 67 days in which airborne concentrations of uranium exceeded allowable limits in some portion of the plant (NRC Inspection Report, March 12, 1982); in 1981 there were 27 such occasions (NRC Inspection Report, March 24, 1983), and 19 days above allowable limits in 1982 (NRC Inspection Report, March 24, 1983). Instead of indicating a downward

trend, these contaminations appear reminiscent of previous reports of plant performance (79 incident reports filed in AEC Compliance Inspection Report, Dec. 3, 1971; 28 incident reports filed in AEC Compliance Inspection Report, May 15, 1973; and 41 incident reports filed in AEC Compliance Inspection Report, July 12, 1974).

Chapter 3.2.4.1 sets standards for air quality within the facility and the protective measures to be taken when those conditions are not met. We are wholly reliant upon the veracity and competence of SFC personnel in reporting airborne radiation levels and resulting worker exposure. The performance of these personnel (and indirectly their competence and integrity) has been placed in question by NRC inspectors. In the NRC Inspection Report dated March 12, 1982, inspectors determined that SFC calculations of worker exposure were possibly "subject to major error" and that two workers were quite possibly overexposed although SFC health physics personnel had determined that they had not been. A 1983 inspection reported that SFC worker exposure calculations were still possibly being underestimated (NRC Inspection Report, March 24, 1983).

Chapters 3.2.4.6 and 3.2.4.7 combine to say that all contaminated areas were to be promptly cleaned. NRC inspectors stated, "It was noted that in some areas exhibiting consistently high levels of contamination, clean-up was somewhat less than expeditious and at times would not be undertaken for periods as long as a week" (NRC Inspection Report, March 24, 1983). This careful statement from NRC inspectors chronicles a pattern of slovenliness by SFC. It must truly be a formidable task to keep contaminations cleaned up in a plant which, as of July, 1975, was averaging 75 spills of uranium each month (AEC Compliance Inspection Report, July 28, 1975).

Radiological Contingency Plan

The proposed license amendment incorporates the existing radiological contingency plan as stated in SUB-1010 license renewal application (1985) without addition.

The proposed license amendment is deficient in that it has no provision for protecting the proposed facility from a general radiological emergency at the existing facility. During the January 4th accident, the plume escaping from the UF6 vessel was sucked into the process building's ventilation system where the fatally injured worker was working. Had the proposed facility been operating on January 4th and had the wind been blowing from the south, it is plausible that workers in the UF6-UF4 plant would have been engulfed in a caustic plume, perhaps precipitating a second accident in that facility.

The radiological contingency plan as it exists under SUB-1010 license renewal application (1985) and as it applies to the proposed facility is deficient in three fundamental respects.

First, it has not provided for adequate training of plant personnel in emergency response procedures. The negligence of management in providing effective training was evidenced by the confusion of workers' response to the accident. The dousing of the spewing vessel with fire hoses was intended to reduce the release (and NRC inspectors conjecture that it might have helped in this regard) however it certainly accelerated the hydrolysis of the UF6 into hydrofluoric acid and uranyl nitrate vapors (NUREG-1179 at 3-9).

Second, management had made no effort to design and implement an emergency or evacuation plan with local authorities prior to the accident.

No coordinated plan for contacting the appropriate authorities existed. Seven years after the accident at Three Mile Island identified emergency coordination with local authorities as being the first line in defending the public safety during an accident, SFC had taken no steps whatsoever to protect anyone outside their plant's fence. This amounts to negligence and reckless indifference for public health and safety on the grandest scale.

Third, SFC officials intentionally deceived local authorities, the media and the public in the critical period after the accident and withheld essential information that the public required, and was rightfully entitled to, in order to take effective protective action. SFC repeatedly asserted and maintained that all uranium fell out of the plume before it reached the plant fence. As a result, the public was deprived of the ability to take reasonable action to minimize their exposure to ultra-hazardous radionuclides.

Relief

The relief sought by Environmental Action is both specific and general in nature.

First, the proposed "time-sharing" approach to management organization is wholly inadequate to ensure the proposed facility's operation in a manner that will protect the public health and safety. An independent and exclusive management and supervisory organization is required in any nuclear facility.

A training program for the proposed facility was never conceived nor conceived of by SFC. Management and supervisory personnel in the existing plant have demonstrated profound neglect and indifference to this essential


responsibility, and these are exactly the people that SFC proposes to neglect the training in the UF6-UF4 facility. The NRC must not permit these individuals to be associated with any ultra-hazardous nuclear facility ever again.

SFC management has a record of slovenliness with nuclear materials and a cavalier attitude towards decontamination and worker exposure. They are incapable of operating the proposed facility in a fashion that will protect the public and the public's environment from radionuclide contamination.

The corporate management of SFC demonstrated negligence and reckless indifference by their lack of preparedness for an off-site radiological emergency, resulting in the contamination and injury of innocent members of the public and the contamination of private property and agricultural crops. Furthermore, during the critical period following the accident, SFC officials knowingly and wilfully provided false information to local authorities, media and the public, all of whom had a right and a need to know.

For all the reasons above, SFC's application must be denied.

Respectfully submitted,



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Dated: April 10, 1986

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CNR ☐ SAFEGUARDS ☐
FCPC ☐ OTHER ☐

DESCRIPTION:

environmental
action - petition
to intervene

04/23/86 INITIAL CSE