

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: COMMISSIONER MERRIFIELD
SUBJECT: SECY-99-269 - RENEWAL OF THE SAFETY LIGHT CORPORATION LICENSES AT BLOOMSBURG, PENNSYLVANIA

Approved Disapproved Abstain
Not Participating

COMMENTS:

See attached comments.



SIGNATURE

12/3/99

DATE

Entered on "AS" Yes No

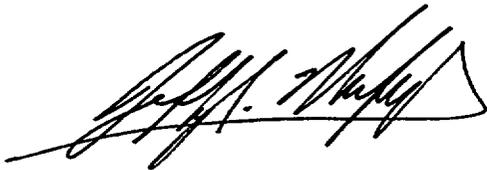
COMMENTS OF COMMISSIONER MERRIFIELD ON SECY-99-269

I approve staff's recommendation to renew the Safety Light Corporation (SLC) licenses under the terms of a renewal that would require SLC to contribute to its decommissioning fund at an increased rate for another 5 years. Prior to finalizing any renewal with SLC, however, the staff should contact the appropriate offices at both the Environmental Protection Agency and the State of Pennsylvania to ensure that their views on this matter are fully considered.

With respect to the USR Companies, as I understand the staff's recommendation, at the time of the renewal with SLC, the Commission "would reaffirm its position that it retains jurisdiction with regard to the USR Companies and their responsibilities regarding the decommissioning of this site." However, it does not appear that the staff proposes seeking any contribution from the USR Companies at this time. The staff's basis for not seeking funds from the USR Companies, while also approving the renewal, is not obvious. It may be that staff's conclusions are based on an interpretation of what is contemplated by the original Settlement Agreement. However, it has come to my attention that USR Companies has breached that Agreement by not complying with the scheduled payments. Therefore, it is not clear that the NRC is foreclosed from simultaneously seeking additional funds from USR Companies at this time. I believe the NRC must address these issues because even with SLC's contribution to site clean-up under the new renewal there will be a deficit of more than \$11 million, not including the costs for clean-up of the ongoing tritium program.

I recognize that the USR Companies will likely object to any new attempt to hold them responsible for funding. In the original Agreement, the USR Companies reserved the right to challenge jurisdiction over them, except as to their obligations under that agreement. Safety Light Corp., et al., 40 NRC 340, 347-49 (Items 10, 12, 15) (1994). My comments today should not be understood as deciding the ultimate merits of any jurisdiction question that may arise in the future. Instead, my comments are based on my strong belief that we should pursue appropriate recourse against parties, such as the USR Companies, that have failed to abide by the terms of legally binding settlement agreements.

For these reasons, I recommend that the staff provide the Commission with an analysis that discusses staff's actions with respect to the USR Companies' non-compliance with the original Settlement Agreement and the staff's consideration of seeking additional funds from the USR Companies, whether before or after license termination. I want to emphasize that this analysis should not interfere with the renewal of SLC's licenses. Our activities with respect to the USR Companies should be treated as a separate matter.



12/8/99