

December 22, 1999

COMMISSION VOTING RECORD

DECISION ITEM: SECY-99-269

TITLE: RENEWAL OF THE SAFETY LIGHT CORPORATION LICENSES AT BLOOMSBURG, PENNSYLVANIA

The Commission (with all Commissioners agreeing) approved the subject paper as recorded in the Staff Requirements Memorandum (SRM) of December 22, 1999.

This Record contains a summary of voting on this matter together with the individual vote sheets, views and comments of the Commission, and the SRM of December 22, 1999.

Annette Vietti-Cook
Secretary of the Commission

Attachments: 1. Voting Summary
2. Commissioner Vote Sheets
3. Final SRM

cc: Chairman Meserve
Commissioner Dicus
Commissioner Diaz
Commissioner McGaffigan
Commissioner Merrifield
OGC
EDO
PDR
DCS

VOTING SUMMARY - SECY-99-269

RECORDED VOTES

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIP	COMMENTS	DATE
CHRM. MESERVE	X				X	12/10/99
COMR. DICUS	X				X	12/7/99
COMR. DIAZ	X				X	12/8/99
COMR. McGAFFIGAN	X					11/24/99
COMR. MERRIFIELD	X				X	12/3/99

COMMENT RESOLUTION

In their vote sheets, all Commissioners approved the staff's recommendation and provided some additional comments. Subsequently, the comments of the Commission were incorporated into the guidance to staff as reflected in the SRM issued on December 22, 1999.

Commissioner Comments on SECY-99-269

Chairman Meserve

I approve the staff's proposal to renew SLC's licenses for a period of five years with the license conditions specified, and to grant an exemption to the requirements of 10 CFR 30.35, subject to the following conditions.

1. The staff should include a requirement that SLC provide a schedule and plan, for NRC review and approval, for continuation of site characterization, remediation, and license termination including strategies for site cleanup to meet the criteria of the license termination rule. The licensee should also develop a plan to meet the requirements of 30.35 before the license expires.
2. I urge the staff to consider the pursuit of the USR Companies so as to assure their fulfillment of obligations arising under the settlement agreement, as well as to seek their further contributions to site decommissioning.

Commissioner Dicus

1. With respect to staff's extensive effort and long-term involvement with SLC, the terms and conditions implemented by the 1994 Atomic Safety and Licensing Board Settlement Agreement, and the programs and controls that SLC has implemented for site decontamination and decommissioning, **I approve Option 2 - License Renewal**. Terminating the licenses under Option 1 would detract from near-term site remediation efforts that staff and the licensee has recently initiated (**decontamination of the two silos and off-site waste disposal**), remove any incentive for SLC to continue contributing to the Settlement Agreement trust fund, and eliminate any incentive to continue site remediation. The two underground disposal silos are the main source of the site's groundwater contamination. Timely remediation of these silos will provide for improving the quality of and adequately protecting the on-site groundwater. As long as SLC remains a viable business and conducts operations in a safe and compliant manner, their occupancy at the site allows for the site to be continually maintained and for remediation efforts to be carried out in a more timely manner, thereby, protecting public health, safety, and the environment.

Commissioner Diaz

I approve Option 2, which provides for renewal of the licenses of the Safety Light Corp. under certain terms and conditions. I also support Commissioner Merrifield's recommendation that the staff provide separately to the Commission an analysis of actions (taken or planned) regarding USR Companies' non-compliance with the original Settlement Agreement and the staff's consideration of pursuit of further contributions from the USR Companies.

Commissioner Merrifield

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.