

RAS 6747

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD PANEL

DOCKETED 08/27/03

SERVED 08/27/03

Before Administrative Judges:

Michael C. Farrar, Presiding Officer
Dr. Charles N. Kelber, Special Assistant

In the Matter of

CFC LOGISTICS, INC.

(Materials License)

Docket No. 30-36239-ML

ASLBP No. 03-814-01-ML

August 27, 2003

FURTHER SCHEDULING ORDER

This Order memorializes determinations on all pending procedural matters, including a stay request, made during a two-hour telephone conference held yesterday morning among the parties, the Presiding Officer, and the Special Assistant. During the conference call, the NRC Staff indicated that it was on the verge of issuing a license to Applicant CFC Logistics, and in observance of the Presiding Officer's August 21 Order Requiring Notice, the Staff advised the Presiding Officer that its intention was to issue the license as early as Wednesday, August 27. For its part, the Applicant committed on the record that if the Staff were to issue the license, no Cobalt 60 would be shipped to the vicinity of the CFC facility prior to the week beginning September 22.

Under these circumstances, and in light of the other unusual aspects of the proceeding discussed during the conference call, the Petitioners' August 22 Motion for Stay is denied without prejudice as premature. After the issuance of the license, Petitioners are free to file an application for a stay of the effectiveness of the license pursuant to 10 C.F.R. § 2.1263 that specifically addresses the four factors set forth in 10 C.F.R. § 2.788(e). To enable the Petitioners to be fully informed in filing that motion, we hereby direct that the portions of the Application that were previously withheld, including the manufacturer drawings of the irradiator components, are to be made available to Petitioners' counsel under an appropriate protective

order that the parties are to negotiate. Persons seeking access to the proprietary information under that protective order are to execute a corresponding nondisclosure affidavit to be filed with the Presiding Officer.

In keeping with the discussions held and the determinations made during yesterday's telephone conference: (1) the Presiding Officer's August 21 Scheduling Order directing the Applicant to respond to the Petitioners' August 21 Motion to Order Release of Documents is superseded; (2) the Presiding Officer's August 25 Order Scheduling Responses to Petitioners' Motion for Stay is mooted; and (3) the Applicant's August 25 oral request for extension of time and page enlargement for responding to the Petitioners' Motion for Stay is denied as moot.

Moving forward, the following schedule will govern:

- Pursuant to the Presiding Officer's August 25 Order Granting Request for Extension of Time, the Staff will file by Wednesday, August 27, a brief on the questions of the Petitioners' standing and the germaneness of their "areas of concern."
- The Staff and the Applicant will make available to Petitioners' counsel the withheld portions of the Application, including the manufacturer drawings of the irradiator components, by noon on Thursday, August 28.
- If they wish to, the Petitioners will file a stay motion by noon on Wednesday, September 3.
- Pursuant to the Presiding Officer's August 25 Order Granting Request for Extension of Time, the Petitioners and the Applicant will file their responses to the Staff's standing/germaneness brief at 5:00 PM on Friday, September 5 by simultaneous electronic transmission.
- If the Petitioners file a stay motion, the Applicant and the Staff will file their responses by 6:00 PM on Monday, September 8.

- An oral argument on the issues of standing and germaneness and on the motion for stay will be held from 5:30 to 8:00 PM on Wednesday, September 10 at a suitable location to be determined.

It is so ORDERED.

BY THE PRESIDING OFFICER*

/RA/

Michael C. Farrar
ADMINISTRATIVE JUDGE

Rockville, Maryland
August 27, 2003

* Copies of this Order are being sent by Internet e-mail transmission to counsel for (1) Applicant CFC; (2) Petitioners; and (3) the NRC Staff.

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NUCLEAR REGULATORY COMMISSION

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)	
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QUAKERTOWN, PENNSYLVANIA)	
)	
(Materials License))	

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB FURTHER SCHEDULING ORDER have been served upon the following persons by U.S. mail, first class, or through NRC internal distribution.

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LB FURTHER SCHEDULING ORDER

[Original signed by Evangeline S. Ngbea]

Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 27th day of August 2003