

ATOMIC SAFETY AND LICENSING BOARD PANEL

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 21, 2003

SCHEDULING ORDER

(Regarding Production of Certain Pages of Application)

The Petitioners filed, at the close of business today, a "Motion to Order Release of Documents" related to certain pages of the pending Application that have been withheld from disclosure under a claim that they are proprietary in nature. The Applicant's response to the motion is to be filed by Wednesday, August 27. The NRC Staff may, if it wishes, file a response by that same date; in any event, the Staff is to inform us by that date as to the status of the Freedom of Information Act request that we were told, in a non-transcribed conference call, is pending regarding those same pages.¹

Although no discovery is permitted in Subpart L proceedings (10 CFR § 2.1231(d)), it is our understanding that a petitioner is customarily entitled to full access to the Application which it is opposing, under an appropriate protective order if necessary. The Applicant should include in its response any authority to the contrary upon which it may be relying, and any suggestions it may have as to appropriate remedies if the Petitioners are denied access to portions of the Application. In any event, we are prepared to consider, at least for purposes of determining whether the Petitioners should be granted additional opportunity to support their position at a later time, the extent and timing of their counsel's access to the Application.

¹ In that same conference call, we thought we had resolved the question as to how the pages in issue would be handled in the event the Staff found that they were entitled to either proprietary or "safeguards" status.

In lieu of filing a response to the pending motion, the Applicant may wish to resolve the matter by preparing a suitable, reasonable protective order under which the Application pages in issue might be made available to Petitioners' counsel and experts. If it reaches agreement with Petitioners by the due date of its response to the motion, no response need be filed and the motion will be dismissed as moot.

It is so ORDERED.

BY THE PRESIDING OFFICER

/RA/

Rockville, Maryland
* August 21, 2003

Michael C. Farrar
ADMINISTRATIVE JUDGE

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.

* Owing to the Presiding Officer's upcoming absence from the office, as noted in an earlier order today, this Order is being signed on the evening of August 21 even though it will not be docketed and served until August 22.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)	
)	
CFC LOGISTICS, INC.)	Docket No. 30-36239-ML
QUAKERTOWN, PENNSYLVANIA)	
)	
(Materials License))	

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB SCHEDULING ORDER (REGARDING PRODUCTION OF CERTAIN PAGES OF APPLICATION) have been served upon the following persons by U.S. mail, first class, or through NRC internal distribution.

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Docket No. 30-36239-ML
LB SCHEDULING ORDER
(REGARDING PRODUCTION OF
CERTAIN PAGES OF APPLICATION)

[Original signed by Adria T. Byrdsong]

Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 22nd day of August 2003