

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

December 11, 2003 (3:09PM)

ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

In matter of :  
CFC LOGISTICS, INC. : DOCKET NO. 30-36239-ML  
materials license application : ASLBP NO. 03-814-01-ML  
:  
:

OBJECTIONS TO STAFF BRIEF ON AREA OF CONCERN REGARDING  
DECOMMISSIONING FINANCIAL ASSURANCE AND SECURITY

The Staff opposes the Board considering area of concern seven regarding the asserted absence of a required decommissioning plan and the asserted insufficiency of the bond. The current Certificate of Deposit in the amount of \$75,000 is insufficient in the face of the current safety concerns with the facility, the known costs of decommissioning a cobalt-60 site, and the inadequacy and overruling of 10 CFR § 30.35(d).

In essence, the Staff is applying regulations which it acknowledges are obsolete and inadequate. (Br. at 3). By virtue of Staff admission, the regulations are overruled, having been determined to be inadequate. Therefore, the validity of the regulation need not be the basis of reviewing the safety of this facility, but rather meeting the decommissioning and safety obligations should be of the utmost concern.

Nevertheless, clearly, the Staff does not the consider the adequacy of the bond to be a relevant consideration for licensing. The Staff goes out of its way to "reassure" the Board that it is not expected that the CFC will fold with inadequate resources. However, there is nothing in the record whatsoever to support the unknown individual's unsupported "reassurance." It is well established that the environmental impact and the costs clean up in the event of failure are a subjects to be considered. Given the speculative nature of the activities at this facility (including the fact that CFC has not yet been able to land a contract for meat processing or any food processing, which may drive their prices down to an unsupportable level, or may lead to a business decision to abandon the plant, or any other alternative to actual insolvency), and no showing of any solvent entity behind the plant as a whole, (including leveraging the extent of which is unknown), obviously, the unknown person's reassurance is not credible, at least not to the point of eliminating the issue. Moreover, the Staff report on the failure at PermaGrain shows that disposal costs of used contaminated rods are extremely high, and indeed are not economically viable in regard to the value, etc. This is a clear NEPA issue. Thus, given the Staff confession of inadequacy, plus PermaGrain, if the issue is foreclosed, the Board should refer it to the Commission

for an exception.

Therefore, if the Board considers that it must close its eyes to this real safety concern, the intervenors request that the Board refer the matter to the Commission as an "exception" or "waiver" to make the Commission's action consistent with the Commission's own Staff statement.

Respectfully submitted,

A handwritten signature in black ink, consisting of a stylized 'R' followed by a series of loops and a long horizontal stroke extending to the right.

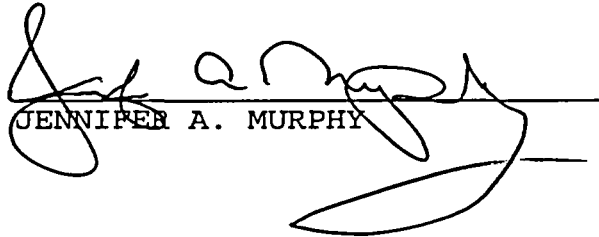
Robert J. Sugarman  
Counsel for Intervenors

CERTIFICATE OF SERVICE

I, Jennifer A. Murphy, hereby certify that I have served a copy of Objections to Staff Brief on Area of Concern Regarding Decommissioning Financial Assurance and Security by first-class mail, email, and facsimile on the following persons on this date:

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U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001  
FAX 301-415-3725

  
JENNIFER A. MURPHY

DATED: December 8, 2003

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December 8, 2003

VIA ELECTRONIC MAIL, FACSIMILE AND U.S. FIRST CLASS MAIL

U.S. Nuclear Regulatory Commission  
Office of the Secretary  
Attn: Rulemaking and Adjudications Staff  
One White Flint North  
11555 Rockville Pike  
Rockville, MD 20852

RE: CFC Logistics, Inc.  
Docket No. 30-36239-ML  
ASLBP No. 03-814-01-ML

Dear Secretary:

Enclosed for filing are Objections to Staff Brief on Area of Concern Regarding Decommissioning Financial Assurance and Security. Copies of the enclosed have been served on the parties indicated on the enclosed certificate of service. Additionally, please return a file-stamped copy in the self-addressed stamped envelope attached herewith.

Respectfully,



Robert J. Sugarman

RJS:saj  
Enclosure

SUGARMAN & ASSOCIATES, PC

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VIA ELECTRONIC MAIL, FACSIMILE AND U.S. FIRST CLASS MAIL

Administrative Judge Michael C. Farrar  
Presiding Officer  
Atomic Safety and Licensing Board Panel  
U. S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

RE: CFC Logistics, Inc.  
Docket No. 30-36239-ML  
ASLBP No. 03-814-01-ML

Dear Judge Farrar:

Please find enclosed Objections to Staff Brief on Area of Concern Regarding Decommissioning Financial Assurance and Security in the above-captioned matter.

Thank you for your consideration.

Respectfully,



Robert J. Sugarman

RJS:saj  
Enclosure  
cc: Stephen Lewis, Esquire  
Anthony Thompson, Esquire  
Office of the Secretary