

RAS 7457

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED 03/15/04
SERVED 03/15/04

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

March 15, 2004

MEMORANDUM

(Requesting Appointment of a Settlement Judge)

The Commission's Rules of Practice governing this proceeding, specifically 10 C.F.R. § 2.1241, encourage the settlement of controversies among the participants to agency adjudicatory proceedings. Previously, this Presiding Officer has raised the possibility of settlement in this proceeding, including suggesting potential parameters for such a settlement, and has conferred with the participants regarding the possibility of having a settlement judge appointed to aid in further discussions. See, e.g., LBP-03-20, 58 NRC 311, 336 (Oct. 29, 2003); Tr. at 415-24 (Dec. 11, 2003). Indeed, when the issue of appointment of a settlement judge was raised during the most recent conference with the parties, none of them raised an objection. See Tr. at 422.

It has come to our attention that following that prehearing conference, a senior official for CFC Logistics, Inc., indicated that the company may be having some second thoughts about settlement. See Steve Wartenberg, "Judge Asks Irradiator Foes, CFC to Settle," The Morning Call online (mcall.com) (Dec. 12, 2003). From the perspective of the Presiding Officer, given the possible benefits of settlement in this proceeding, there remains considerable reason to allow the settlement process to move forward by having a settlement judge appointed who, as a first step, can obtain any needed clarification regarding the position of the parties about their willingness to enter into the settlement process.

Therefore, in accord with Section 2.1241 and the Commission's decision in Rockwell International Corp. (Rocketdyne Division), CLI-90-05, 31 NRC 337, 340-41 (1990), I request that a settlement judge be appointed in this proceeding. While settlement opportunities are being explored, the briefing of the pending preliminary matters will continue as scheduled (see today's Order Extending Briefing Time), as will our ongoing preparation of questions for the parties to address as part of their upcoming written presentations on the merits, if it be necessary to reach that step.

BY THE PRESIDING OFFICER

/RA/

Michael C. Farrar
ADMINISTRATIVE JUDGE

Rockville, Maryland
March 15, 2004

Copies of this Request were sent this date by Internet e-mail transmission to counsel for (1) CFC Logistics; (2) Intervenors; and (3) the NRC Staff.

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 MEMORANDUM (REQUESTING APPOINTMENT OF A SETTLEMENT JUDGE) have been served upon the following persons by U.S. mail, first class, or through NRC internal distribution.

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[Original signed by Evangeline S. Ngbea]

Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 15th day of March 2004