

62

March 10, 1992

Note to: Bill Parler

From: *JP* Jack Goldberg

SUBJECT: COMMISSION PAPER ON RESTART OF SEQUOYAH FUELS CORPORATION
(SECY-92-075)

In the attached Commission Paper, the Staff advises that it expects to authorize restart and to deny the NACE-Cherokee Nation 2.206 Petition. The Staff advises that authorization to restart will depend on: the outcome of a current investigation by the Office of Investigation into allegations of improper health physics surveys and falsification of records; a satisfactory response by SFC to three concerns raised in Inspection Report 40-8027/91-17 (March 6, 1992); effective SFC management performance up to restart authorization; and any advice or direction from the Commission resulting from the March 17, 1992 open Commission meeting concerning restart.

The Staff concluded that the SFC plant will be operated so as to protect the public health and safety and in compliance with applicable requirements. The Staff based its conclusion primarily upon an evaluation of SFC's response to three enforcement actions: the September 19, 1990, Order Modifying License, the November 5, 1990 Demand for Information, and the October 3, 1991, Order Modifying License and Demand for Information. The Staff also evaluated certain issues raised by the NACE-Cherokee Nation Petition.

The September 19, 1990, Order Modifying License required SFC to assure integrity of the Main Process Building (MPB) floor and sumps, investigate actual and potential soil and groundwater contamination from operations in the MPB, determine whether the monitoring well program was and is adequate to identify migration from the MPB, determine whether licensed material was or is being released beyond the restricted area, and develop a plan to characterize other locations where SFC operations did or could contaminate the environment. In response, SFC investigated and repaired all identified and suspected defects in the MPB floors and sumps, with its consultant conducted a comprehensive geohydrological investigation of the MPB, expanded its groundwater monitoring program, and developed and implemented a characterization plan. The results of the entire site investigation were documented and submitted as the July 1991 Facility Environmental Investigation Report. The Staff closed out the Order in March 1991 after concluding that SFC had met all requirements of the Order. (IR 90-07)

The November 5, 1990, Demand for Information required SFC to describe an oversight program that the licensee would put into

place while management deficiencies and organizational weaknesses were being remedied, and to state whether it was willing to submit a plan for an independent appraisal of the site management, supervisory personnel, and corporate organizations and activities which would identify root causes of the management breakdown and would develop recommendations for improvement in management controls and oversight to ensure that personnel would comply with regulatory requirements and site procedures. In response, SFC implemented an oversight program, and submitted the independent appraisal on May 15, 1991. SFC provided its response to each of the 47 recommendations and a schedule for implementation. The Staff concluded, based upon its inspection and review of documentation submitted by SFC, that the programs described by SFC would, if fully implemented, would satisfy the concerns in the Demand. (IR 91-17) However, the Staff also identified three concerns which SFC must address before authorization before restart: adequacy of health and safety technician staffing; less than fully effective correction of management performance, as evidenced by a lack of initiative to take prompt corrective action concerning contaminated articles in the warehouse and Carlile Training Center; and SFC oversight of licensed operations during implementation of long-term corrective programs.

The October 3, 1991, Order Modifying License prohibited SFC from operating until SFC submitted and obtained approval of a plan and schedule to review the adequacy of its Health & Safety and Environmental Programs. After evaluation of SFC's plan and schedule, and inspection of SFC facilities, the Staff determined that SFC had satisfied these requirements, and approved SFC's schedule for review, including reviews to be conducted post-restart. (IR 91-17). Based upon failures to provide complete and accurate information to an NRC inspector, the Order also required the removal of the Environmental Department Manager from licensed activities; the concurrent October 3, 1991 Demand for Information required SFC to explain why the Senior Vice President, the Vice President-Regulatory Affairs, the Health Physics Supervisor/Assistant Radiation Safety Officer, and the former Manager of Health, Safety and Environment should not be removed from licensed activities. SFC removed four of the individuals from licensed activities, and the fifth had resigned. SFC committed to provide 30 days notice to the NRC before reassigning any of the five managers and supervisors to licensed activities. That commitment was made binding by a Confirmatory Order Modifying License on January 13, 1992.

The NACE-Cherokee Petition requested immediate revocation of SFC's operating license for material false statements in the license renewal application concerning groundwater contamination at the site, or in the alternative completion of a formal adjudicatory hearing before authorization to restart because of extensive environmental contamination and poor management performance. The Staff advised that it intended to deny the Petition. The Staff

concluded that Petitioners did not establish a basis to find that the license renewal application contained material false statements, although omission of SX sandwell and MPB subfloor process monitoring data from the application was an apparent violation of 10 CFR § 40.9, for which the Staff expects to issue an NOV. The Staff also concluded that despite SFC's compliance record, the extreme sanction of revocation is not warranted and that the enforcement actions taken by the Staff were appropriate. The Staff also concluded that a formal adjudicatory proceeding is not justified because safety issues identified by Petitioners are being adequately addressed by staff actions and SFC's responses thereto. Moreover, Petitioners may address the same safety issues in the pending renewal proceeding in which Petitioners have been permitted to intervene. Finally, a February 28, 1992, request by Petitioners for preparation of an Environmental Impact Statement before authorization to restart was denied on March 5, 1991, based largely on 10 CFR § 51.10(d).

Attachment: As stated

cc: J. Scinto
L. Chandler