

These meetings will be open to the public on a space available basis for the purpose of planning for the future.

If, in the course of discussion, it becomes necessary for the Committee to discuss nonpublic commercial or financial information of intrinsic value, the committee will go into closed session pursuant to subsection (c)(4) of the Government in the Sunshine Act, 5 U.S.C. 552b.

Additionally, discussion concerning purely personal information about individuals, such as personal biographical and salary data or medical information, may be conducted by the committee in closed session, in accordance with subsection (c)(6) of U.S.C. 552b.

Any interested persons may attend as observers, on a space available basis, but seating is limited in meeting rooms and it is suggested that individuals wishing to attend notify the staff of the President's Committee in advance at (202) 682-5409 or write to the Committee at 1100 Pennsylvania Avenue, NW, Suite 526, Washington, DC 20506.

Dated: August 30, 1995.

Yvonne M. Sabine,

*Director, Council and Panel Operations,
National Endowment for the Arts.*

[FR Doc. 95-22075 Filed 9-5-95; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 070-925]

Consideration of Amendment Request for Decommissioning the Cimarron Corporation Facility in Crescent, Okla., and Opportunity for Hearing

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Consideration of Amendment Request for Decommissioning the Cimarron Corporation Facility in Crescent, Oklahoma, and Opportunity for Hearing.

The U.S. Nuclear Regulatory Commission is considering issuance of an amendment to Special Nuclear Material License No. SNM-928, issued to the Cimarron Corporation (the Licensee), for the decommissioning of its former nuclear fuel fabrication facility in Crescent, Oklahoma.

The Licensee requested the amendment in a letter dated May 4, 1995, requesting that License No. SNM-928 be amended to incorporate the decommissioning plan (DP) for the

Cimarron facility submitted to NRC in April 1995. Radioactive contamination at the Cimarron facility resulted from operations to produce enriched uranium reactor fuels conducted from 1965 through 1977. The Licensee also submitted a site characterization report in support of the DP. The license amendment would authorize the Licensee to decommission the Cimarron facility in accordance with the DP.

The NRC will require the Licensee to remediate the Cimarron facility to meet NRC's criteria, and, during the decommissioning activities, to maintain effluents and doses as low as reasonably achievable.

Prior to the issuance of the proposed amendment, NRC will have made findings required by the Atomic Energy Act of 1954, as amended, and NRC's regulations. These findings will be documented in a Safety Evaluation Report and an Environmental Assessment.

The NRC hereby provides notice that this is a proceeding on an application for a license amendment falling within the scope of Subpart L, Informal Hearing Procedures for Adjudications in Materials Licensing Proceedings, of NRC's rules and practice for domestic licensing proceedings in 10 CFR part 2. Pursuant to § 2.1205(a), any person whose interest may be affected by this proceeding may file a request for a hearing in accordance with § 2.1205(c). A request for a hearing must be filed within thirty (30) days of the date of publication of this **Federal Register** notice.

The request for a hearing must be filed with the Office of the Secretary either:

1. By delivery to the Docketing and Service Branch of the Office of the Secretary at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852-2738; or
2. By mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Attention: Docketing and Service Branch.

In addition to meeting other applicable requirements of 10 CFR part 2 of the NRC's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

1. The interest of the requestor in the proceeding;
2. How that interest may be affected by the results of the proceeding, including the reasons why the requestor should be permitted a hearing, with particular reference to the factors set out in § 2.1205(g);

3. The requestor's areas of concern about the licensing activity that is the subject matter of the proceeding; and

4. The circumstances establishing that the request for a hearing is timely in accordance with § 2.1205(c).

In accordance with 10 CFR 2.1205(e), each request for a hearing must also be served, by delivering it personally or by mail, to:

1. The applicant, Cimarron Corporation, Kerr-McGee Center, P.O. Box 25861, Oklahoma City, OK, 73125, Attention: Mr. Jess Larsen, and

2. The NRC staff, by delivery to the Executive Director for Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, or by mail, addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

For further details with respect to this action, the application for amendment request is available for inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC 20555.

Dated at Rockville, MD, this 23rd day of August 1995.

For the Nuclear Regulatory Commission.

Michael F. Weber,

Chief, Low-Level Waste and Decommissioning Projects Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 95-22039 Filed 9-5-95; 8:45 am]

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[Docket No. 50-344]

Portland General Electric Co.; Trojan Nuclear Power Station; Federal Court Decision and Opportunity for Public Comments

On July 20, 1995, the United States Court of Appeals for the First Circuit issued a decision granting a petition by the Citizens Awareness Network ("CAN") for review of a decision by the Nuclear Regulatory Commission. See *Citizens Awareness Network, Inc. v. NRC*, No. 94-1562, _____ F.3d _____, 1995 WL 419188 (1st Cir., July 20, 1995). The First Circuit found that the Commission erred when it rejected CAN's request for a hearing on the component removal project ("CRP") that Yankee Atomic Electric Power Company ("YAEC") is carrying out as part of decommissioning the Yankee Nuclear Power Station, located in Rowe, Massachusetts. The Court held that "CAN was entitled to a hearing under section 189a [of the Atomic Energy Act of 1954] in connection with the NRC decision to permit YAEC's early CRP." Slip op. at 26. The Court also held that

the Commission had violated the National Environmental Policy Act by permitting YAEC to initiate the CRP before the agency had prepared an environmental assessment or impact statement. The Court remanded the case to the Commission for further action in accordance with these holdings.

In reaching these results the Court criticized the Commission's change in interpretation of its 1988 decommissioning regulations¹ that it announced in a staff requirements memorandum dated January 14, 1993. In that memorandum, the Commission decided to allow its licensees to conduct "any decommissioning activity" prior to NRC approval of a decommissioning plan, so long as the activity did not "violate the terms of the licensee's existing license * * * or 10 CFR 50.59 as applied to the existing license." Previously, the Commission had required that "major dismantling and other activities * * * must await NRC approval of a decommissioning plan." See *Long Island Lighting Co.* (Shoreham Nuclear Power Station, Unit 1), CLI-91-2, 33 NRC 61, 73 n.5 (1991). *Accord*, *Sacramento Municipal Utility District* (Rancho Seco Nuclear Generating Station), CLI-92-2, 35 NRC 47, 61 n.7 (1992). Relying on the Commission's new interpretation, YAEC began removing major components from its Yankee reactor before obtaining approval of a decommissioning plan.² In its decision, the First Circuit held (among other things) that the Commission had failed to give an adequate explanation for its shift in policy.

The Commission will not seek either rehearing of this decision by the First Circuit or review in the United States Supreme Court. When the First Circuit's mandate issues, the Commission will comply with the decision.³ The Commission currently believes that, pending completion of its ongoing rulemaking on decommissioning, further decommissioning activities must be conducted under existing NRC regulations as the Commission interpreted and applied them prior to the 1993 change in interpretation that

the court rejected.⁴ Prior to January, 1993, NRC licensees could not initiate major dismantling activities prior to Commission approval of a decommissioning plan. Furthermore, prior to 1993 the Commission consistently offered opportunities for hearings on proposed decommissioning plans.⁵

By a separate notice published today the Commission is soliciting public comments on how to proceed on remand in the Yankee proceeding itself. But other nuclear power plants contemplating or engaged in decommissioning may also be affected by the First Circuit decision. The most notable of these is the Trojan Nuclear Power Station, located near Portland, Oregon, and operated by Portland General Electric ("PGE"). Currently, PGE is engaged in a program of dismantlement and removal of large components in advance of receiving NRC approval of the Trojan decommissioning plan. The Trojan decommissioning plan was submitted to the NRC in January, 1995, and review by the NRC staff is currently in progress.

In view of the First Circuit decision the Commission intends to issue a **Federal Register** notice offering an opportunity for a hearing on whether to approve the Trojan plan. In addition, the Commission is considering whether it is necessary to halt any decommissioning activity at Trojan, pending a hearing. The First Circuit decision does not require the Commission to take affirmative action halting dismantling activities currently being conducted in reliance on the interpretation rejected by the court. Nonetheless, the Commission's prior interpretation of its rules precludes major dismantling activities prior to approval of a decommissioning plan.

Comments submitted at this time by interested persons should address the Commission's legal authority to allow or forbid further decommissioning activity at Trojan and should address the current

balance of equities, including (1) any consequences for public health and safety and the environment, (2) the costs to PGE and others from interrupting decommissioning activities, and (3) the public interest. The Commission also requests comments on the Commission's proposed response to the First Circuit decision as a general matter. Alternative suggestions on how the Commission should oversee decommissioning in the wake of the First Circuit decision are welcome.

The NRC requests PGE to submit its comments no later than 10 calendar days after publication of this notice. The NRC requests other interested members of the public to submit comments as soon thereafter as possible, but no later than 17 calendar days after publication of this notice. The NRC promptly will place copies of all comments in its Public Document Room and in the Local Public Document Room at the Trojan site.

In addition, PGE and the parties to the Oregon state proceeding reviewing the Trojan CRP should serve their comments directly on each other and on the NRC staff. All comments should be addressed to: Emile Julian, Chief, Docketing and Service Branch, Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Service of comments on the NRC Staff may be accomplished by addressing them to: Seymour H. Weiss, Chief, Non-Power Reactors and Decommissioning Project Directorate, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and Lawrence J. Chandler, Esq., Assistant General Counsel for Hearings and Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Comments may be hand-delivered to the NRC's Offices at 11555 Rockville Pike, Rockville, Maryland between 7:45 a.m. and 4:15 p.m. on Federal Workdays.

FOR FURTHER INFORMATION CONTACT: Charles Mullins, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington DC 20555, telephone (301) 415-1606.

Dated at Rockville, MD, this 30th day of August, 1995.

For the Nuclear Regulatory Commission.

Andrew L. Bates,

Acting Secretary of the Commission.

[FR Doc. 95-22034 Filed 9-5-95; 8:45 am]

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¹ See 53 FR 24018 (June 27, 1988).

² Subsequently, on February 14, 1995, the NRC approved a decommissioning plan for Yankee Rowe. See 60 FR 9870 (February 22, 1995). During the approval process, the NRC staff held an informal public meeting to receive comments about the plan.

³ Pursuant to Rule 41 of the Federal Rules of Appellate Procedure, the Court's mandate will issue no later than September 12, 1995, unless the intervenor YAEC petitions for rehearing or obtains a stay of mandate pending a petition for Certiorari.

⁴ The Commission has published for comment a proposed decommissioning rule that would introduce significant changes in the present regulations. See 60 FR 37374 (July 20, 1995). Because this new rulemaking is underway, the Commission does not intend to undertake procedures to reinstate the 1993 policy change.

⁵ The NRC staff offered an opportunity for hearings on proposed orders approving the Shoreham, Fort St. Vrain, and Rancho Seco decommissioning plans, which were the only plans approved under the Commission's 1988 decommissioning regulations. See, e.g., 56 FR 66459 (December 23, 1991); 57 FR 8940 (Mar. 13, 1992); and 57 FR 9577 (Mar. 19, 1992). A hearing was requested on the Rancho Seco plan and was being conducted when the case was settled. A hearing was requested on the Shoreham plan, but the case was settled before the hearing opened.