

In its response to the Petition, SFC committed to inform NRC of any proposal SFC receives for transfer of property adjacent to the industrial area, before SFC acts on any such proposal. SFC also states that at some future time, SFC may dispose of real property unaffected by licensed operations at the SFC facility, and would do so only after notifying NRC. In the case of affected areas, SFC states that it will dispose of such property that has been released by NRC, after SFC demonstrates that appropriate criteria have been met.

Before real property used in connection with or affected by activities conducted pursuant to NRC License No. SUB-1010 could be transferred to a person without authority to engage in NRC-licensed activities, that property must be decommissioned to meet the criteria for release for unrestricted use. See 10 CFR 40.4 and 40.42, and License SUB-1010, Condition 14. Since the proposed Trust Indenture would involve the transfer of land for the purposes of an industrial park, it appears that the potential transferees have no plan to engage in NRC-licensed activities. Thus, the decommissioning criteria for release of such property would be for unrestricted use.⁵ If SFC were to decommission property used in connection with its licensed activities to meet NRC criteria for release for unrestricted use, the transferee would assume no obligation to remediate or to engage in long-term care of such property, and NRC would have no regulatory authority over the transfer of or the transferees of such property.

If property used in connection with activities conducted pursuant to NRC License No. SUB-1010 were transferred to a person who seeks authority to engage in NRC-licensed activities, including decommissioning activities such as remediation or long-term care, SFC would be required to obtain written permission from NRC prior to the transfer. See 10 CFR 40.46. At that time, it would be appropriate for NRC to ensure that the transferee is capable of meeting NRC requirements for decommissioning and all other applicable licensing requirements and the transferee must obtain an NRC license. In view of the above, Petitioners concerns about the potential transfer of property to the Trust and state, and potential transferees of such property,

⁵ The Commission is currently evaluating proposed changes to the rules governing release criteria. See "Radiological Criteria for Decommissioning," 59 Fed. Reg. 43200 (August 22, 1994). SFC will have to comply with all NRC requirements for release to unlicensed individuals under any revised rules.

are adequately addressed by applicable regulations.

D. Petitioner Requests That NRC Staff Issue an Order Forbidding SFC, Sequoyah Fuels International Corporation, Sequoyah Holding Corporation, or Any Other Associated Corporation That Holds Title to Property Subject to NRC License No. SUB-1010, From Transferring Any Interest in Such Property Before SFC Applies for and Receives a License Amendment Authorizing Such a Transfer

As explained above, SFC owns the land subject to NRC License No. SUB-1010. Before SFC may transfer or release any property used in connection with, or affected by, its licensed activity to a person not authorized to engage in NRC-licensed activity, that property must be remediated in accordance with an approved decommissioning plan to meet NRC criteria for release for unrestricted use. See Section III.C, *supra*. There is no NRC requirement that a licensee obtain NRC permission to transfer property which has been remediated to meet NRC's criteria for release for unrestricted use.

If SFC were to transfer property subject to the license or affected by licensed activity to persons for the purpose of engaging in licensed activity, 10 CFR 40.46 requires that SFC obtain written permission from NRC before transferring such property and the transferees must obtain an NRC license. Petitioners, however, have provided no evidence that such a transfer is contemplated or imminent.

Petitioners have raised no safety concern regarding a potential transfer of property used in connection with or affected by activities pursuant to NRC License No. SUB-1010, or potential transferees of such property. See Section III.C., *supra*. Moreover, since protection of the public health and safety, in the event of a transfer of such property to the proposed Trust Indenture, is already accomplished by NRC regulations, there is no justification to issue the requested order.

IV. Conclusion

The institution of proceedings pursuant to 10 CFR 2.202 is appropriate only where substantial health and safety issues have been raised. See *Consolidated Edison Company of New York* (Indian Point, Units 1, 2, and 3), CLI-75-8, 2 NRC 173, 175-176 (1975); *Washington Public Power Supply Systems* (WPPSS Nuclear Project No. 2), DD-84-7, 19 NRC 899 (1984). This is the standard I have applied to determine whether the action requested by

Petitioner is warranted. For the reasons given above, Petitioner's request that SFC ordered to submit a written final SCP by a date certain is denied. Petitioner's request that NRC perform a title search of property subject to NRC License No. SUB-1010 was satisfied. Action on Petitioner's request for an order forbidding the transfer of any interest in land subject to NRC License No. SUB-1010 before SFC applies for and receives a license amendment permitting such transfers is unnecessary because applicable regulations address Petitioners concerns. Likewise, Petitioner's request that, before granting such a license amendment application, NRC ensure that potential purchasers of property be subject to NRC License No. SUB-1010 to fully be apprised of their obligations for site remediation and long-term care and that NRC ensure such potential purchasers are financially qualified to do so, is unnecessary because applicable regulations address Petitioner's concerns.

As provided by 10 CFR 2.206(c), a copy of this Decision will be filed with the Secretary of the Commission for the Commission's review. The Decision will become the final action of the Commission 25 days after issuance, unless the Commission on its own motion institutes review of the Decision within that time.

Dated at Rockville, Maryland, this 23 day of October, 1995.

For the Nuclear Regulatory Commission,
Carl J. Paperiello,

Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 95-26937 Filed 10-30-95; 8:45 am]

BILLING CODE 7590-01-P

[Docket Nos. 50-255, 72-7, and 72-1007]

Consumers Power Company, Palisades Nuclear Plant; Receipt of Petition for Director's Decision Under 10 CFR 2.206

Notice is hereby given that by a Petition dated September 19, 1995, Lake Michigan Federation and Don't Waste Michigan request that the NRC take action regarding the use of VSC-24 casks to store spent nuclear fuel at the Palisades Nuclear Plant. Petitioners ask that the NRC find that Consumers Power Company violated NRC regulations by using the casks without first establishing adequate unloading procedures and resolving all unreviewed safety questions regarding the use of the casks.

On the basis of these violations, Petitioners ask that the NRC impose

finances amounting to \$1.3 million and suspend Consumers Power Company's use of the 10 CFR Part 72 general license to store spent fuel until all outstanding issues are resolved and until a cask in which a suspected defect has been identified is unloaded. Petitioners have also asked that they be provided an opportunity to participate in reviewing the unloading procedure the licensee has developed and in any proceeding initiated in response to their Petition.

The Petition is being treated pursuant to 10 CFR 2.206 of the Commission's regulations and has been referred to the Director of the Office of Nuclear Reactor Regulation. As provided by § 2.206, appropriate action will be taken on this Petition within a reasonable time.

A copy of the Petition is available for inspection at the Commission's Public Document Room at 2120 L Street, N.W., Washington, DC, and at the local public document room at the Van Wylen Library, Hope College, Holland, Michigan 49423-3698.

Dated at Rockville, Maryland this 24th day of October 1995.

For the Nuclear Regulatory Commission,
William T. Russell,
Director, Office of Nuclear Reactor Regulation.

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SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 21448/International Series Release No. 876; 812-9714]

Internationale Nederlanden Bank N.V., et al.; Notice of Application

October 24, 1995.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Internationale Nederlanden Bank N.V. ("ING Bank") and Internationale Nederlanden Bank (Hungary) Rt. ("ING Bank Hungary").

RELEVANT ACT SECTIONS: Order requested under section 6(c) of the Act to exempt applicants from section 17(f).

SUMMARY OF APPLICATION: Applicants request an order to permit ING Bank Hungary to act as custodian in Hungary for certain U.S. registered investment companies.

FILING DATES: The application was filed on August 7 1995 and amended on October 10, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 20, 1995, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing request should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary: SEC, 450 Fifth Street, N.W., Washington, DC 20549. Applicants: ING Bank, Strawinskylaan 2631, 1077 ZZ Amsterdam, the Netherlands; and ING Bank Hungary, Andrassy út 9, H-1061 Budapest, Hungary.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney (202) 942-0572, or C. David Messman, Branch Chief, at (202) 942-0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. ING Bank is a Dutch banking institution and is part of Internationale Nederlanden Groep N.V., a major European financial institution. ING Bank is regulated in the Netherlands by the Dutch Ministry of Finance and the Dutch Central Bank. As of December 31, 1994, ING Bank had shareholders' equity in excess of U.S. \$5.4 billion.

2. ING Bank Hungary is a Hungarian banking organization. ING Bank Hungary is supervised by the National Bank of Hungary, the Hungarian Ministry of Finance, and the State Banking Supervision. ING Bank Hungary is a wholly-owned direct subsidiary of ING Bank. As of December 31, 1994, ING Bank Hungary had shareholders' equity of U.S. \$10.3 million.

3. Applicants request an order to permit ING Bank Hungary to maintain custody of assets ("Assets") of investment companies registered under the Act, other than those registered under section 7(d) of the Act, ("Investment Companies"). As used herein, "Assets" includes cash; cash equivalents; securities issued and sold

primarily outside the United States by a foreign government, a national of any foreign country, or a corporation or other organization incorporated or organized under the laws of any foreign country; and securities issued or guaranteed by the government of the United States or by any State, political subdivision, or agency thereof, or entity organized under the laws of the United States or any State thereof that have been issued and sold primarily outside the United States.

4. ING Bank, as custodian or subcustodian for a U.S. Investment Company, would deposit assets of a U.S. Investment Company with ING Bank Hungary or, alternatively, ING Bank Hungary would receive and hold the Assets of a U.S. Investment Company directly from such U.S. Investment Company. In either case, ING Bank will assume liability for any loss, damage, cost, expense, liability, or claim arising out of or in connection with the performance by ING Bank Hungary of its duties and obligations as custodian to the same extent as if ING Bank itself had provided such custody services. ING Bank would not be responsible for losses that may result from political risk (e.g., exchange control restrictions, confiscation, expropriation, nationalization, insurrection, civil strife, or armed hostilities) and other risk of loss (excluding bankruptcy or insolvency of ING Bank Hungary), for which neither ING Bank nor ING Bank Hungary would be liable (e.g., despite the exercise of reasonable care, loss due to Acts of God, nuclear incidents, and the like).

5. Applicants request that the order extend to: (a) any U.S. Investment Company for which ING Bank or ING Bank Hungary acts as foreign custodian or subcustodian; and (b) any custodian or subcustodian for such U.S. Investment Company.

Applicants' Legal Analysis

1. Section 17(f) of the Act provides that a registered investment company may maintain securities and similar assets in the custody of a bank meeting the requirements of section 26(a) of the Act, a member firm of a national securities exchange, the investment company itself, or a system for the central handling of securities established by a national securities exchange. Section 2(a)(5) of the Act defines "bank" to include banking institutions organized under the laws of the United States, member banks of the Federal Reserve System, and certain banking institutions or trust companies doing business under the laws of any state or of the United States. ING Bank