

RAS 4745

August 8, 2002

DOCKETED
USNRC

Park Overall
4843 Arcola Avenue
North Hollywood, CA 91601
e-mail:

August 12, 2002 (2:08PM)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

BY FEDERAL EXPRESS
Secretary, U.S. Nuclear Regulatory Commission
11555 Rockville Pike
Rockville, MD 200852

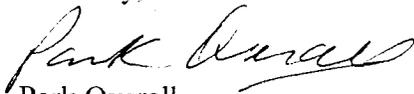
Dear Madam/Sir:

On behalf of the Tennessee Environmental Council, Oak Ridge Environmental Peace Alliance, the State of Franklin/Sierra Club, and Friends of the Nolichucky River Valley, I am enclosing a request for hearing regarding the proposed expansion of operations at the NFS-Erwin facility in Tennessee.

As the person who has coordinated this effort, I have been authorized to sign the hearing request on behalf of the petitioner organizations. Notices of appearance for myself and a representative of each of the petitioner organizations are enclosed.

I would appreciate it if you would include me on the service list for any notices that are sent out. I would also request that the parties include me on their service lists.

Sincerely,



Park Overall
4843 Arcola Ave.
North Hollywood CA 91601
661-268-8335
email: Olparko@aol.com

Cc: Service list

UNITED STATES OF AMERICA
U.S. NUCLEAR REGULATORY COMMISSION
BEFORE THE SECRETARY

DOCKETED
USNRC

August 12, 2002 (2:08PM)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

In the matter of)
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Nuclear Fuel Services, Inc.)

) Docket No. 70-143

(Materials License SNM-124))
)

**REQUEST FOR HEARING BY
OAK RIDGE ENVIRONMENTAL PEACE ALLIANCE, TENNESSEE
ENVIRONMENTAL COUNCIL,
STATE OF FRANKLIN GROUP/SIERRA CLUB, Friends of the
Nolichucky River Valley**

As provided by the U.S. Nuclear Regulatory Commission (“NRC”) in a July 9, 2002, Federal Register Notice, 67 Fed. Reg. 45,555, petitioners Oak Ridge Environmental Peace Alliance (“OREPA”), Tennessee Environmental Council, the State of Franklin Group of the Sierra Club and Friends of the Nolichucky River Valley (“petitioners”) hereby request a hearing regarding this proceeding for the amendment of Nuclear Fuel Services’s (“NFS’s”) materials license for its Erwin, Tennessee, facility.

Petitioners note that this hearing request addresses only environmental issues raised by the Environmental Assessment (“EA”) that is identified in the Federal Register notice published by the NRC. The Federal Register

notice does not identify any license amendment application that is the subject of a hearing; nor does it propose to make any safety determinations regarding any such application. Petitioners presume that at some future point, the NRC will provide public notice of any proposal to approve an actual license amendment request that has been or may be submitted by NFS.

Petitioners request that any aspect of this hearing that is held as a public meeting be conducted locally. It should also be conducted in the evening so that working people can attend.

The petitioners have representational standing to participate in this proceeding. All of the petitioner organizations are environmental groups with an interest in protecting the quality of the environment of East Tennessee and the Nolichucky River. All of the petitioner organizations have members who live and/or own property and/or recreate in the area of the NFS Erwin facility and/or the Nolichucky River. As demonstrated by the attached declarations of petitioners' members, these members' health and property interests, and their interests in a clean and healthful

environment, would be injured by the unsafe operation of the NFS-Erwin facility.¹

The NFS-Erwin facility chemically processes hazardous and radioactive chemicals, and produces hazardous and radioactive effluents. As acknowledged in the Environmental Report, it poses a hazard of accidental releases to the human environment of substances that may be hazardous to petitioners' health and safety and to the environment in which they live and which they enjoy.

For instance, Park Overall, whose declaration is attached as Exhibit 1, lives on the banks of the Nolichucky River, into which the NFS-Erwin plant discharges its chemical and radioactive effluent. While she does not swim or raft in the river now because it is highly sedimented, she would like to do so in the future if the sedimentation is cleaned up. However, she will not be able to do so if levels of chemical and radioactive effluent from the NFS-Erwin facility are unacceptably high. In addition, she is concerned that the municipal drinking water supply for the town where she lives, Afton, Tennessee, will become contaminated by chemical and radioactive effluent

¹ See Declaration of Park Overall, attached as Exhibit 1; Declaration of Dean Whitworth, attached as Exhibit 2; Declaration of Chris Irwin, attached as Exhibit 3, Declaration of Wilhelmina Williams attached as Exhibit 4

from the NFS-Erwin plant. Drinking contaminated water from the Nolichucky River could have an adverse impact on her health. She is also concerned about the potential decline in the value of her property as a result of excessive contamination of the Nolichucky River. Finally, she is concerned about the effect of chemical and radioactive contamination of the river on plants and wildlife, which she enjoys. Other declarations attached to this hearing request express similar concerns.

The hearing may result in the denial of a license amendment to NFS, in which case the health and safety risks and environmental impacts about which petitioners are concerned would not occur. Alternatively, the NRC Licensing Board may impose conditions on the issuance of the license that mitigate or avoid environmental impacts or reduce health and safety risks. Therefore, petitioners' participation in the proceeding could result in changes to the application that would provide better protection to petitioners' interests.

This petition is timely, because it is being filed within 30 days of publication of notice in the Federal Register.

Petitioners' Areas of Concern

Petitioners seek to raise the following areas of concern in the hearing.

The statement of concerns listed below is intended to provide the minimal information needed to determine whether the petitioners' concerns are germane to the proceeding. *See* Statement of Considerations to 10 C.F.R. Part 2, Subpart L, 54 Fed. Reg. 8,269, 8,272 (February 28, 1989); *Babcock and Wilcox Company* (Pennsylvania Nuclear Services Operations, Parks Township, Pennsylvania), LBP-94-12, 39 NRC 215, 217 (1994).

1. The EA prepared by the NRC Staff is not sufficient to support the issuance of a license amendment for any of the three licensing actions described in the EA, because the potential impacts of the three activities to be licensed are significant and therefore warrant preparation of an Environmental Impact Statement ("EIS"). The handling and processing of high-enriched uranium ("HEU"), along with hazardous chemicals, poses hazards of explosions and accidental chemical and radiological releases that could have significant adverse impacts on workers, the public, and the environment. Moreover, NFS-Erwin has a long history of contaminating the environment, thus raising significant questions about whether it can operate under the amended license in a manner that protects the environment. The EA acknowledges that NFS has caused groundwater contamination, and in

addition there is a lawsuit pending in Federal District Court in Greenville, TN (2:02CV148 filed on 5/31/02, Impact Plastics Incorporated, Preston Tool and Mold Inc. and Gerald M. O'Connor Jr. Plaintiff vs. Nuclear Fuel Services Inc., A Maryland Corporation, Defendant, An amended complaint was filed on 6/21/02 as well as a Certificate of Corporate Interest) that alleges that NFS has contaminated groundwater on neighboring properties. Finally, the potential adverse environmental impacts of transporting five tons of liquid bomb-grade uranium to the NFS-Erwin site are significant. These impacts include but are not limited to the consequences of a terrorist attack or sabotage. The events of September 11, 2001, and subsequent investigations by the NRC, demonstrate that such an attack is foreseeable.

An EIS must be prepared that addresses the full range of reasonably foreseeable adverse environmental impacts of the proposed expansion of the NFS-Erwin facility. The EIS should also address a reasonable range of alternatives for mitigating or avoiding those impacts, and weigh the costs and benefits of alternatives. An EIS should also give "due consideration" to NFS's compliance with requirements of agencies other than the NRC, including the Environmental Protection Agency ("EPA"); and state, regional and local agencies. *See* 10 C.F.R. § 51.71(d). This is particularly important,

because (a) uranium emissions are regulated by EPA as well as NRC, including regulation for toxicity; (b) NFS's non-radiological effluents to air, surface water, and groundwater will increase. To petitioners' knowledge, NFS has not obtained any EPA, State or local permits for the proposed activities.

2. The NRC Staff acted unreasonably when it issued a Finding of No Significant Impact ("FONSI") before taking a hard look at the safety of NFS's proposed HEU downblending operation under its 10 C.F.R. Part 70 regulations. As the Staff concedes at pages 1-2 – 1-3 of the EA, NFS has submitted only one of three license amendment applications related to this project – the application for construction of a storage building for low-enriched uranyl nitrate solutions. At the time the Federal Register notice was published, NFS had not submitted license amendment applications for the other two related aspects of the project: changes needed for downblending HEU (supposedly submitted in July 2002); and authorization to operate the conversion process and effluent processing facilities. Moreover, it does not appear that the NRC Staff has reviewed the safety of any of the three steps referenced in the EA. In fact, the initial application for

construction of the uranyl nitrate building, which was sent in February of 2002, is not even referenced in the Federal Register notice.

Given that radiological accidents constitute the principal means by which the NFS Erwin facility could have an adverse impact on the environment, and given that the NRC's chief area of expertise lies in assessing compliance with its safety regulations for the control of radiological releases, the NRC cannot be considered to have taken the proverbial "hard look" at the environmental impacts of the expansion of the NFS-Erwin facility if it has not reviewed any license amendment application regarding the safety of the proposed operation. The NRC simply does not have sufficient details about the proposed operation of the augmented NFS operation to conclude that it poses no significant environmental impacts. In fact, the EA hedges the question of whether environmental impacts are significant, by stating at various points that they "appear" to be insignificant.

3. The NRC should not permit NFS to undertake any new operations at the Erwin site, or to accumulate increased amounts of radioactive material, until it has completed a comprehensive site investigation into the extent of environmental contamination that NFS has already caused, the cost of cleaning it up, and whether NFS has sufficient resources to clean it up. This

is necessary to permit an adequate assessment of the cumulative impacts to the environment of additional operations at the NFS-Erwin site, as well as the impacts to the environment if NFS goes bankrupt as a result of cleanup costs and is unable to operate the expanded facility safely.

Respectfully submitted,

Ralph Hutchison, Executive Director
Oak Ridge Environmental Peace Alliance
490 West Outer Drive
Oak Ridge, TN 37830
Tel. 865/482-8202
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e-mail: orep@earthlink.net

Ralph Hutchison / PO

Will Callaway, Executive Director
Tennessee Environmental Council
One Vantage Way, Suite D105
Nashville, TN 37228
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Will Callaway / PO

Dean Whitworth, Member, Governing Board
State of Franklin Group/Sierra Club
1101 Antioch Road
Johnson City, TN 37604
423/929-8163
FAX: 423/232-9485
e-mail:

Dean Whitworth / PO

Steven A. Broyles, President
Wilhelmina Williams, Board Member/Treasurer
Friends of the Nolichucky River Valley, Inc.
P.O. Box 278
Chuckey, TN 37641

Stephen A. Broyles / PD
Dated: August 8, 2002

UNITED STATES OF AMERICA
U.S. NUCLEAR REGULATORY COMMISSION
BEFORE THE SECRETARY

In the matter of)

Nuclear Fuel Services, Inc.)

(Materials License SNM-124))

) Docket No. 70-143
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**NOTICE OF APPEARANCE
OF PARK OVERALL
ON BEHALF OF PETITIONERS**

Pursuant to 10 C.F.R. § 2.713(b), Park Overall enters this appearance on behalf of petitioners Tennessee Environmental Council, Oak Ridge Environmental Peace Alliance, the State of Franklin Group of the Sierra Club and The Friends of the Nolichucky River Valley. Ms. Overall has been authorized by these petitioner organizations to sign the attached hearing request on their behalf. Petitioner organizations also request that she be served with copies of all orders and pleadings.

Respectfully submitted,



Park Overall
4843 Arcola Avenue
North Hollywood, CA 91601
Email: Dmurray989@AOL.com
661/268-8335

FAX: 661/268-8635

Dated: August 7, 2002

UNITED STATES OF AMERICA
U.S. NUCLEAR REGULATORY COMMISSION
BEFORE THE SECRETARY

In the matter of)	
)	
Nuclear Fuel Services, Inc.)	Docket No. 70-143
)	
(Materials License SNM-124))	
)	

**NOTICE OF APPEARANCE
OF RALPH HUTCHISON ON BEHALF OF
OAK RIDGE ENVIRONMENTAL PEACE ALLIANCE**

Pursuant to 10 C.F.R. § 2.713(b), Ralph Hutchison, executive director of Oak Ridge Environmental Peace Alliance ("OREPA"), enters this appearance on behalf of OREPA. OREPA has decided to participate in this proceeding and has authorized Mr. Hutchison to act as its representative.

Respectfully submitted,



Ralph Hutchison

Oak Ridge Environmental Peace Alliance
490 West Outer Drive
Oak Ridge, TN 37830
Tel. 865/482-8202
FAX 865/483-9725
e-mail: orepa@earthlink.net

Dated: August 7, 2002

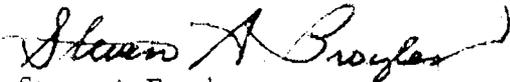
UNITED STATES OF AMERICA
U.S. NUCLEAR REGULATORY COMMISSION
BEFORE THE SECRETARY

In the matter of)
)
Nuclear Fuel Services, Inc.) Docket No 70-143
)
(Materials License SNM-124)

NOTICE OF APPEARANCE
OF STEVEN A. BROYLES ON BEHALF OF
FRIENDS OF THE NOLICHUCKEY RIVER VALLEY, INC

Pursuant to C.F.R. 2.713(b), Steven A. Broyles enters this appearance on behalf of the Friends of the Nolichucky River Valley, Inc. Mr. Broyles is president of Friends of the Friends of the Nolichucky River Valley, Inc., which has decided to participate in this proceeding and has authorized Mr. Broyles to act as its representative.

Respectfully submitted,


Steven A. Broyles

Friends of the Nolichucky River Valley, Inc
P.O. Box 278
Chuckey, TN 37641
Tel 423/257-4235
FAX 423/257-7870
Email: bevams@xta.net

Dated: August 7, 2002

UNITED STATES OF AMERICA
U.S. NUCLEAR REGULATORY COMMISSION
BEFORE THE SECRETARY

In the matter of)	
)	
Nuclear Fuel Services, Inc)	Docket No. 70-143
)	
(Materials License SNM-124))	
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**NOTICE OF APPEARANCE
OF WILL CALLAWAY ON BEHALF OF
TENNESSEE ENVIRONMENTAL COUNCIL**

Pursuant to 10 C.F.R. § 2.713(b), Will Callaway enters this appearance on behalf of the Tennessee Environmental Council. Mr. Callaway is executive director of Tennessee Environmental Council, which has decided to participate in this proceeding and has authorized Mr. Callaway to act as its representative.

Respectfully submitted,


Will Callaway

Tennessee Environmental Council
One Vantage Way, Suite D105
Nashville, TN 37228
Tel. 615/248-6500
FAX 615/248-6545
e-mail: will@tectn.org

Dated: August 7, 2002

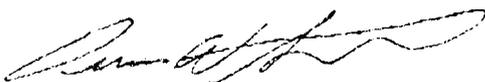
UNITED STATES OF AMERICA
U.S. NUCLEAR REGULATORY COMMISSION
BEFORE THE SECRETARY

In the matter of)	
)	
Nuclear Fuel Services, Inc.)	Docket No. 70-143
)	
(Materials License SNM-124))	
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**NOTICE OF APPEARANCE
OF DEAN WHITWORTH ON BEHALF OF
STATE OF FRANKLIN GROUP/SIERRA CLUB**

Pursuant to 10 C.F.R. § 2.713(b), Dean Whitworth enters this appearance on behalf of the State of Franklin Group of the Sierra Club. Mr. Whitworth is a member of the State Chapter governing board, and represents the State of Franklin Group before the executive committee. The State of Franklin Group/Sierra Club has decided to participate in this proceeding and has authorized Mr. Whitworth to act as its representative.

Respectfully submitted,



Dean Whitworth
State of Franklin Group/Sierra Club
698 Carrie Bunton Lane
Butler, Tennessee 37640
423/727-7214
FAX: 423/232-9485
e-mail: deanw@tibonline.net

Dated: August 7, 2002

CERTIFICATE OF SERVICE

I certify that on August 8, 2002, copies of Request for Hearing by Oak Ridge Environmental Peace Alliance, Tennessee Environmental Council, and State of Franklin Group/Sierra Club and Friends of the Nolichucky River Valley, were served by Federal Express on the following:

Secretary, U.S. Nuclear Regulatory Commission
11555 Rockville Pike
Rockville, MD 20852

Executive Director for Operations
U.S. Nuclear Regulatory Commission
11555 Rockville Pike
Rockville, MD 20852

Nuclear Fuel Services
1205 Banner Hill Road
Erwin, TN 37650-9718



Park Overall

Exhibit ✓

UNITED STATES OF AMERICA
U.S. NUCLEAR REGULATORY COMMISSION
BEFORE THE SECRETARY

In the matter of)
)
)
Nuclear Fuel Services, Inc.) Docket No. 70-143
)
(Materials License SNM-124))
)

DECLARATION OF PARK OVERALL

Under penalty of perjury I, Park Overall, declare that:

1. My name is Park Overall. My principal residence is 4843 Arcola Avenue, North Hollywood, CA 91601.
2. I have a fifteen-acre farm in Tennessee, at 1347 Ripley Island Road in the town of Afton. I reside at my Tennessee residence at part of each year, sometimes for as long as two months.
3. My farm lies on the banks of the Nolichucky River. The Nuclear Fuel Services ("NFS") Erwin plant lies about 31 river miles upstream.
4. When I was a child, I swam and boated in the Nolichucky River. I don't do that any more, because the river has become heavily sedimented over the years. If the water quality in the river were not so degraded and unpleasant, I would continue to swim and fish there to this day.
5. I am concerned that if I am ever able to swim or fish in the Nolichucky River again, my health will be affected by chemical and radioactive effluents from the NFS-Erwin plant. I am also concerned about the effects of increased pollution from the Erwin Plant on the quality of my drinking water, because the town of Afton gets its water from the Nolichucky River and any additional contamination from the Erwin Plant may have a detrimental effect on Afton's water quality. Finally, I am concerned about the effects of an increase in the NFS plant's effluent to the Nolichucky River on my property values.

6. I am a member of the Tennessee Environmental Council. I am also a member of Oak Ridge Environmental Peace Alliance ("OREPA") as well as Friends of the Nolichucky River Valley. I have authorized the Tennessee Environmental Council, OREPA, and Friends of the The Nolichucky River Valley to represent my interests in this proceeding.


Park Overall

Date: Aug 8 02

Exhibit D

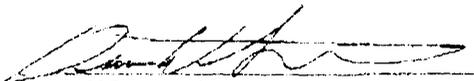
UNITED STATES OF AMERICA
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In the matter of)	
)	
Nuclear Fuel Services, Inc)	Docket No. 70-143
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DECLARATION OF DEAN WHITWORTH

Under penalty of perjury I, Dean Whitworth, declare that:

1. My name is Dean Whitworth. I live at 698 Carlie Bunton Lane, Butler, Tennessee.
2. I frequently visit the banks of the Nolichucky River, downstream of the Nuclear Fuel Services ("NFS") plant, for the purposes of picnicking, wading, and recreational gold panning. I am concerned that additional pollution of the stream that has been proposed by NFS will pose unacceptable harm to me, my family, and friends.
3. I am a member of State of Franklin Group of the Sierra Club, and serve on the executive committee. I have authorized the State of Franklin Group/Sierra Club to represent my interests in this proceeding.



 Dean Whitworth

Date: 8/7/02

UNITED STATES OF AMERICA
U.S. NUCLEAR REGULATORY COMMISSION
BEFORE THE SECRETARY

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Nuclear Fuel Services, Inc) Docket No. 70-143
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DECLARATION OF CHRIS IRWIN

Under penalty of perjury I, Chris Irwin, declare that:

1. My name is Chris Irwin. I live at 2131 Riverside Drive, Knoxville, Tennessee.
2. I am a former river guide on the Nolichucky River. I continue to boat and hike along the Nolichucky on a regular basis, but I restrict my activities to the area upstream of the Nuclear Fuel Services ("NFS") Erwin plant. I would boat and hike in the area downstream of the Erwin plant, but I am concerned about the effects on my health of radioactive and chemical effluents that NFS emits from the plant. If NFS is allowed to increase its radioactive and chemical effluents from the plant, this will discourage me even further from hiking or boating downstream of the Erwin plant
3. I am a member of Oak Ridge Environmental Peace Alliance ("OREPA"). I have authorized OREPA to represent my interests in this proceeding.


Chris Irwin

Date: AUG 7 2002

UNITED STATES OF AMERICA
U. S. NUCLEAR REGULATORY COMMISSION
BEFORE THE SECRETARY

In the matter of)
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Nuclear Fuel Services, Inc) Docket No. 70-143
)
(Materials License SNM-124))
)
)

DECLARATION OF WILHELMINA WILLAEMS

Under penalty of perjury I, Wilhelmina Williams, declare that:

- 1 My name is Wilhelmina Williams. I live at 340 Clemmer Drive, Chuckey, TN 37641
- 2 I have a home and five acres of property that is part of a fifty-acre, mostly natural area owned by my parents on the Cliffs of the Nolichucky River. This property has been in my family since 1777.
- 3 The Nuclear Fuel Services ("NFS") Erwin plant lies about 20 miles upstream from my home.
- 4 I am a founding member and treasurer of the Friends of the Nolichucky River Valley, Inc.
- 5 For reasons set forth in the Request for Hearing, I am concerned that:
 - My health and safety and the health and safety of my family and neighbors may be damaged by chemical and radioactive effluents from NFS-Erwin
 - The effects of increased pollution from the Erwin Plant could damage the ecological assets of this beautiful rural area
 - I am also concerned about the drinking water, because the Chuckey Utility District gets its water from the Nolichucky River and any additional contamination from the Erwin Plant may have a detrimental effect on Chuckey's water quality.
 - The agricultural industry could be damaged because food grown in this valley, watered directly from the river, then shipped extensively across the country will be contaminated. The Class A soil could be damaged from the heavy metals deposited from the water and air
 - That the 220,000 annual tourists who visit the Davy Crockett Birthplace State Park and other neighborhood Historic Districts and archeological sites, located

on the river, for historical education, fishing, swimming, boating, camping and hiking will be affected by chemical and radioactive effluents from the NFS-Erwin plant.

- That my property values will be jeopardized.

Therefore, I have authorized the Friends of the Nolichucky River Valley, Inc. to represent my interest in this proceeding.

Wilhelmina Williams

Wilhelmina Williams

Date: 8/7/02