

RAS 5056

November 29, 2002

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

DOCKETED  
USNRC

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

December 9, 2002 (11:18AM)

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

DECLARATION OF KATHY HELMS-HUGHES

Under penalty of perjury I, Kathy Helms-Hughes, declare that:

1. My name is Kathy Helms-Hughes. I live at 152 Whaleytown Road, in Butler, Tennessee, less than 20 miles downwind from Nuclear Fuel Services Inc. of Erwin, Tenn.

2. My 10-year-old female child attends Little Milligan Elementary School, also less than 20 miles downwind from Nuclear Fuel Services Inc. of Erwin, Tenn.

3. I am aware that Nuclear Fuel Services (NFS) has applied to the U.S. Nuclear Regulatory Commission (NRC) for a license amendment that would allow it to downblend highly-enriched uranium (HEU) at its plant in Erwin, Tenn. According to an Environmental Assessment (EA) prepared by the staff of the U.S. Nuclear Regulatory Commission in June 2002, the downblending operation would result in increased discharges of radioactive contaminants into the air through emissions from the proposed BLEU Complex. Table 5.2 of the EA shows that uranium, thorium, plutonium & americium discharges into the air are projected to increase approximately 395 percent.

4. As described in Section 3.9 of the Environmental Assessment, operation of the NFS facility has resulted in radiological and chemical contamination of soil and groundwater at NFS. The Environmental Protection Agency has documented that radiological and chemical contamination also have migrated offsite from the Erwin plant. It is apparent that NFS does not have sufficient control of its operation to ensure that radiological and chemical releases from the proposed downblending operation will be contained properly, as evidenced in NRC inspection reports. NFS has been issued numerous Notices of Violation, some of which include:

- A Severity Level IV violation July 17, 2002, resulting from failure to follow procedures during the operation of tank WD-02 and an inadvertent discharge of fissile solution.
- A Severity Level IV violation resulting from a May 16, 2002, incident in which the licensee failed to personally attend containers having more than 50 grams U-235 which were not in a locked cage, not inside of processing equipment, and were not liquid laboratory waste.

Template = SECY-018

SECY-02

- A Severity Level IV violation resulting from a March 2002 incident in which the criticality detection and evacuation alarm system testing was not performed and one individual unit was not checked, as required by NFS's license application.
- A Severity Level III violation on Sept. 24, 2001, involving the failure to maintain a criticality alarm system for storage of approximately 20 kilograms of highly enriched uranium;
- A Severity Level III violation on Oct. 19, 1999, for failure to conduct searches in accordance with the physical protection plan, failure to follow procedures for special nuclear material, and failure to control and account for SNM in assigned locations.

From 1999 until present, the violations have changed in severity from Level III to Level IV, not because NFS's performance is better but because the NRC has lowered the severity standards. The appearance that NFS's operations have improved is misleading.

5. The increased levels of radiological contaminants in the air near my home and my child's school, caused by normal operations and potential accidental releases, will have adverse impacts on the health of myself, my family and community members. I suffer from chronic asthma and my 10-year-old child also has respiratory problems. Prevailing winds from Nuclear Fuel Services tend to be from the southwest but channel through the valley in our direction (northeast). The majority of our community draw their drinking water from mountain springs, as there is no public utility water source available. Increased radiation contamination from Nuclear Fuel Services will settle in our area downwind from NFS, especially during frequent summer inversions, and not only cause increased respiratory problems, but will lead to contamination of our only source of drinking water. My property values have the potential to decline as a result of public perception of increased radioactive contamination from NFS's plant that pose a health risk to the surrounding area.

6. On Feb. 28, 2002, NFS submitted the first of three license amendments necessary to authorize the BLEU Project, a new operation in which NFS would downblend high-enriched uranium for use in nuclear reactors owned by the Tennessee Valley Authority. The Feb. 28 license amendment application pertains to the proposed construction of a Uranyl Nitrate Storage Building. According to a March 4, 2002, Federal Register notice, in July 2002, NFS was expected to submit a second license amendment application, authorizing it to perform dissolution of highly-enriched uranium/aluminum alloy and uranium metal and downblending of the resulting solution into low-enriched uranyl nitrate solution. The second application has not yet been submitted. The March 4 Federal Register notice also stated that NFS was expected to file a third license amendment application in January of 2003. The third license amendment would allow NFS to perform conversion of the low-enriched uranyl nitrate solution into uranium dioxide powder.

In June 2002, after having received the first of the three license amendment applications, the NRC staff issued an Environmental Assessment for the BLEU Project. Conceding that in the absence of all three license amendment applications it was unable to do a detailed environmental review of the entire project, the NRC staff still made a finding of no significant impact. However, the finding of no significant impact was issued with the stipulation that the staff also planned to perform a second environmental review as part of its safety evaluation of the two prospective

license amendment applications, and that it would revise the EA if the second environmental review indicated that the EA did not fully evaluate the environmental effects of the proposed BLEU Project.

To proceed with a hearing at this point in time would be inconsistent with the National Environmental Policy Act. Considering the environmental impacts of the proposed BLEU Project in three separate segments would appear to constitute unlawful segmentation under NEPA. Environmental impacts of just one aspect of the project could appear less significant than if the environmental impacts of the entire project were considered.

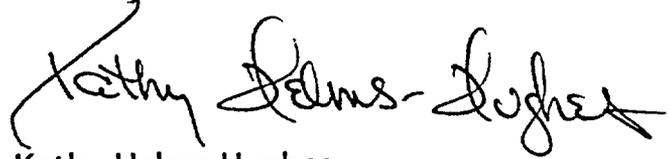
7. These are but some of the reasons that a full Environmental Impact Statement should be performed to meet NEPA requirements. An addendum to the original Department of Energy EIS, such as is being presented here, does not meet NEPA requirements and take into consideration population growth, new schools, aging population growth, or the lack of an acceptable evacuation plan in the event of an accident. Transportation issues also have not been adequately addressed. Shipment of uranium product associated with the process will be primarily via Interstates 81 and 40, interstates I frequently travel on a weekly basis and which have been shut down recently on several occasions due to trucking accidents resulting in the spill of hazardous chemicals. Shipments of HEU along those interstate routes could pose an increased risk of accidents and increased health risks to persons traveling those major thoroughfares.

It is the responsibility of this panel to ensure that public health and safety are protected. Therefore, I respectfully request that a public hearing be held in abeyance and that the BLEU Project be put on hold until a full EIS is produced by NFS, as required. Partial EAs or a partial EIS are inappropriate. I also respectfully request that the NRC's decision on NFS's license amendment application include adequate measures for the protection of the health and welfare of myself, my family, and the surrounding communities.

A copy of this declaration was e-mailed to the appropriate parties on Nov. 29, 2002, as required by the Federal Register notice posted Oct. 30, 2002 (Volume 67, Number 210, Page 66172-66176) with a hard copy to follow by U.S. Mail on ~~Dec. 1~~ Nov. 30, <sup>KH</sup>

I do not have a fax machine. I have an iMac computer with limited memory available, which does not translate tiff files, Microsoft Word or Word Perfect documents. I request that any documents be sent to me by U.S. Mail, Federal Express, or other appropriate means, and that personal correspondence without attachments be submitted by e-mail.

Respectfully submitted,



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