

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

December 19, 2002
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December 20, 2002 (2:38PM)

Before the Presiding Officer

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

In the Matter of)	
)	Docket No. 70-143
NUCLEAR FUEL SERVICES, INC.)	Special Nuclear Material
)	License No. SNM-124
(Special Nuclear Material License))	

APPLICANT'S SUPPLEMENT TO APPLICANT'S ANSWERS TO PETITIONERS' REQUESTS FOR HEARING

On August 23, 2002 and December 13, 2002, Applicant Nuclear Fuel Services, Inc. ("Applicant" or "NFS") filed answers to the petitions that had requested a hearing in this proceeding.¹ Applicant respectfully requests permission to file a supplement to its answers and files this supplement to bring to the attention of the Presiding Officer a Commission decision yesterday that is dispositive of at least one potential area of concern raised by the petitioners in their hearing requests.

In Private Fuel Storage, L.L.C. (Independent Spent Fuel Storage Installation), CLI-02-25, 56 NRC __ (Dec. 18, 2002), the Commission ruled that "NEPA [the National Environmental Policy Act] does not require a terrorism review." Id., slip op. at 2. The Commission's decision ruled on contentions in several cases² raising the question of "whether NEPA requires the NRC,

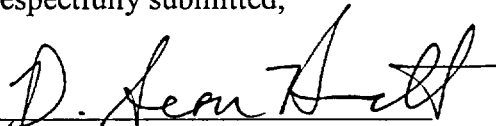
¹ Applicant's Answer To Request For Hearing Of The Friends Of The Nolchucky River Valley, The State Of Franklin Group Of The Sierra Club, The Oak Ridge Environmental Peace Alliance, and The Tennessee Environmental Council (Dec. 13, 2002); Applicant's Answer To Request For Hearing and Areas Of Concern Of The Blue Ridge Environmental Defense League (Dec. 13, 2002); Applicant's Answer To Declaration Of Kathy Helms-Hughes (Dec. 13, 2002); Applicant's Answer to Requests for Hearing of Julia Beach, David Byrd, Tamara Davis Chapman, William Cooper, Brandon Davis, Julia B. Evans, Denne D. Evans, Tom L. Foreman, Linnea Gilmer, Joanna Hammonds, Whitney Johnson, Gerald M. O'Connor, Jr., James Smith, Drew Walsh, and Peter H. Zars (Aug. 23, 2002).

² The Commission reached the same conclusion in three other decisions handed down yesterday. Duke Cogema Stone & Webster (Savannah River Mixed Oxide Fuel Fabrication Facility), CLI-02-24, 56 NRC __ (Dec. 18, 2002); Duke Power Corp. (McGuire Nuclear Station, Units 1 & 2; Catawba Nuclear Station, Units 1 & 2), CLI-02-26, 56

in rendering licensing decisions, to consider the impacts of terrorism.” Id. The Commission discussed the four grounds on which it based its decision: 1) NEPA's "rule of reason" excludes consideration of impacts far removed from the proposed agency action; 2) the risk (and particularly the probability) of a terrorist attack cannot be adequately determined; 3) NEPA does not require worst case analyses; and 4) NEPA's public process is not a forum for sensitive security issues. Id. at 14, 16, 18, 22.

At least one petitioner in this proceeding sought to raise the potential effects of terrorist attacks as an area of concern regarding the environmental analysis of the NFS license amendment application.³ NFS submits that the Commission’s Private Fuel Storage decision renders that and any similar concerns not cognizable under NEPA.

Respectfully submitted,



Dafyl M. Shapiro
D. Sean Barnett
SHAW PITTMAN LLP
2300 N Street, N.W.
Washington, D.C. 20037
(202) 663-8507
Counsel for Nuclear Fuel Services, Inc.

Neil J. Newman
Vice President and General Counsel
Nuclear Fuel Services, Inc.

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NRC __ (Dec. 18, 2002); Dominion Nuclear Connecticut, Inc. (Millstone Nuclear Power Station, Unit 3), CLI-02-27, 56 NRC __ (Dec. 18, 2002)

³ See Request For Hearing Of The Friends Of The Nolichucky River Valley, The State Of Franklin Group Of The Sierra Club, The Oak Ridge Environmental Peace Alliance, and The Tennessee Environmental Council (Nov 27, 2002) at 11, 13.

CERTIFICATE OF SERVICE

I hereby certify that copies of Applicant's Supplement to Applicant's Answers to Petitioners' Requests for Hearing were served on the persons listed below by electronic mail or by facsimile and deposit in the U.S. mail, first class, postage prepaid, this 19th day of December, 2002.

*Office of Commission Appellate
Adjudication
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Administrative Judge
Alan S. Rosenthal, Presiding Officer
Atomic Safety and Licensing Board Panel
Mail Stop – T-3 F23
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
Fax: 301-415-5599
email: rsnthl@aol.com; sam4@nrc.gov

Administrative Judge
Richard F. Cole, Special Assistant
Atomic Safety and Licensing Board Panel
Mail Stop – T-3 F23
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
Fax: 301-415-5599
Email: rfl1@nrc.gov

Dennis C. Dambly
Jennifer M. Euchner
David A. Cummings
Office of the General Counsel
Mail Stop: O-15 D21
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
Fax: 301-415-3572
Email: dac3@nrc.gov; jme@nrc.gov;


Louis Zeller
Blue Ridge Environmental Defense League
P.O. Box 88
Glendale Springs, NC 28629
Email: BREDL@skybest.com

Diane Curran
Harmon, Curran, Spielberg & Eisenberg,
L.L.P.
1726 M Street, N.W., Suite 600
Washington, D.C. 20036
Fax: 202-328-6918
Email: dcurran@harmoncurran.com

Office of the Secretary
U.S. Nuclear Regulatory Commission
11555 Rockville Pike
One White Flint North
Rockville, MD 20852-2738
Attention: Docketing and Service Branch
Fax: 301-415-1101
Email: hearingdocket@nrc.gov
(original and two copies)

**C. Todd Chapman, Esq.
King, King & Chapman, P.L.L.C.
125 South Main Street
Greeneville, TN 37743
Fax: 423-639-3629

*Kathy Helms-Hughes
P.O. Box 58
Hampton, TN 37658
Email: Khelms@mounet.com


D. Sean Barnett

* by U.S. mail only

** by facsimile and U.S. mail only