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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED 03/03/03
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ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

Alan S. Rosenthal, Presiding Officer
Dr. Richard F. Cole, Special Assistant

In the Matter of

NUCLEAR FUEL SERVICES, INC.

(Erwin, Tennessee)

Docket No. 70-143-MLA-2

ASLBP No. 03-810-02-MLA

March 3, 2003

MEMORANDUM

It is my usual practice to permit a hearing requestor in a material license proceeding such as this one to reply to a filing in opposition to the grant of the request. Thus, in a February 28, 2003 order, and without waiting for a response from the Licensee, Nuclear Fuel Services, Inc., I summarily granted a motion filed by Kathy Helms-Hughes the prior day. That motion sought leave to respond to Licensee's February 21 submission urging the rejection of her February 6 hearing request as not satisfying the requirements imposed by the Commission's Rules of Practice.

It subsequently was brought to my attention that Licensee's counsel had desired to respond to the Helms-Hughes motion because he apparently believed that some of the representations therein constituted unwarranted personal attacks upon his client. I thereupon asked a Panel staff member to provide counsel with an oral assurance that the grant of the

motion had been an entirely routine action on my part that did not involve the acceptance of any of the specific assertions advanced by Ms. Helms-Hughes in support of the relief she sought.¹

This memorandum has a dual purpose. First, it is to confirm what Licensee's counsel was told orally respecting the basis upon which the Helms-Hughes motion had been granted. Second, it is to take note of the regrettable fact that both the Licensee's opposition to the hearing request and the Helms-Hughes motion for leave to respond thereto are freighted with one or more ad hominem characterizations.² Such characterizations obviously have no proper

¹The oral assurance provided to Licensee's counsel applied equally to my summary grant on February 27 of the like motion of Friends of the Nolichucky River Valley, et al. (FNRV), for leave to respond to the Licensee's February 21 opposition to their February 6 hearing request. The Licensee apparently also desired to reply to that motion but was foreclosed from doing so because of my prompt action on it that was followed by an apparent default in the electronic mail transmission of the February 27 order to the parties.

There is, however, no need for further direct reference in this memorandum to either the Licensee's opposition to the FNRV hearing request or the motion for leave to respond to that opposition. Neither of those documents appears to be subject to the criticism set forth in the next paragraph of the text and accompanying footnote with respect to the content of filings in the Helms-Hughes matter.

²For example, in its February 21 submission (at p. 20), the Licensee maintained that Ms. Helms-Hughes "is more interested in muckraking than in pursuing legitimate safety or environmental issues." This totally gratuitous remark prompted the rejoinder in the Helms-Hughes motion that the Licensee was attempting "to cover up apparent wrongdoing" and, further, that the Licensee "has chosen to divert attention from themselves by portraying Helms-Hughes as a lazy muckraker." It is difficult to believe that either Licensee's counsel or Ms. Helms-Hughes genuinely thought that their position on the merits of the issues presented by the hearing request and the opposition thereto might somehow be furthered by inflammatory statements of this stripe.

place in submissions by parties to our proceedings and, moreover, scarcely advance the cause of their sponsor. Accordingly, the Licensee and Ms. Helms-Hughes are each admonished to take care to avoid a repetition of their employment in future filings in this proceeding.

BY THE PRESIDING OFFICER³

/RA/

Alan S. Rosenthal
ADMINISTRATIVE JUDGE

Rockville, Maryland

March 3, 2003

³Copies of this order were sent this date by e-mail transmission to the counsel or other representative of each of the participants in the proceeding.

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NUCLEAR REGULATORY COMMISSION

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ERWIN, TENNESSEE)
)
(Material License Amendment-2))

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB MEMORANDUM DATED MARCH 3, 2003 have been served upon the following persons by U.S. mail, first class, or through NRC internal distribution.

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Docket No. 70-143-MLA-2
LB MEMORANDUM DATED MARCH 3, 2003

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[Original signed by Evangeline S. Ngbea]

Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 3rd day of March 2003