

April 21, 2004

Annette Vietti-Cook, Secretary
Office of the Secretary
Mail Stop: O-16C1
U.S. Nuclear Regulatory Commission
Washington, DC 20555

In the Matter of
NUCLEAR FUEL SERVICES, INC.
(Material License Amendment-3)
Docket No. 70-143-MLA-1, 2 & 3

Dear Secretary:

This is to advise that the Staff, unless directed otherwise, will not file a response to Ms. Kathy Helms-Hughes' "Motion for Appeal" dated April 1, 2004. As permitted by 10 C.F.R. § 2.1213¹, and as reflected in letters dated September 13, 2002, February 20, 2003, and March 5, 2004, the NRC Staff ("Staff") originally elected not to participate as a party in the referenced proceedings. The Staff did not become a party to this consolidated proceeding until March 17, 2004, when the Presiding Officer, upon granting Sierra Club's hearing request, ordered the Staff's participation.²

Since the Staff was not a party at the time when responses to hearing requests were due, the Staff did not respond to the requests and therefore, did not take a position on the adequacy of Ms. Kathy Helms-Hughes' arguments regarding standing in her hearing requests.³ Since the "Motion for Appeal" filed by Ms. Kathy Helms-Hughes' deals entirely with the

¹ For cases docketed prior to February 13, 2004, the effective date of amendments to the NRC's Rules of Practice (10 C.F.R. Part 2), the former provisions of Part 2 continue to apply. See "Changes to Adjudicatory Process: Final Rule," 69 Fed. Reg. 2182 (Jan. 14, 2004).

² See "Memorandum and Order (Ruling on Hearing Requests)," LBP-04-05, 59 NRC __ (March 17, 2004).

³ See "Declaration of Kathy Helms-Hughes," November 29, 2002; "Request for Hearing and Leave to Intervene by Kathy Helms-Hughes in the Matter of Nuclear Fuel Services, Inc.'s Notice to Amend its NRC Special Nuclear Materials License SNM-124," February 7, 2003; and "Third Request for Hearing by Kathy Helms-Hughes Regarding Nuclear Fuel Services Proposed Blended Low-Enriched Uranium Project," February 2, 2004.

Presiding Officer's decision denying her standing, unless directed otherwise, the Staff takes no position regarding this matter.

Sincerely,

/RA/

Angela B. Coggins
Counsel for NRC Staff

cc: Judge Alan S. Rosenthal, Presiding Officer
Dr. Richard F. Cole, Special Assistant
Daryl M. Shapiro, Esq.
Sean Barnett, Esq.
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Atomic Safety and Licensing Board Panel
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