RAS 14564

DOCKETED
USNRC

October 31, 2007 (4:07pm)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

123 Rolling Hills Rd.
Erwin, TN 37650

October 24, 2007

Unites States of America
Nuclear Regulatory Commission
ATTN: Atomic Safety and Licensing Board
Before the Presiding Officer
Washington, D. C. 20555-0001

In the Matter of Nuclear Fuel Services, Inc. License SNM-124, Special Nuclear Material Facility (Confirmatory Order)

Docket No. 70-143-CO
ASLBP No. 07-857-01-CO-BD01

SUBJECT: PETITIONER WANDA SUE KELLEY'S REPLY TO NRC STAFF'S RESPONSE TO HEARING REQUEST

1. References:

a. Letter from Atomic Energy Board granting in part motion for 7-day extension due Wednesday, October 24, 2007. My previous letter dated August 26, 2007, is still open because my questions have not been answered and my concerns are still the same.

b. Letter from U. S. House of Representatives, Rep. John D. Dingell, Chairman, Committee on Energy and Commerce and Rep. Bart Stupak, Chairman, Subcommittee on Oversight and Investigations to Hon. Dale E. Klein, Ph.d. Chairman, U. S. NRC, 7-3-07.

c. U. S. Nuclear Regulatory Commission, Discussion of Security Issues, May 30, 2007, 10:30 a.m., closed session, 50 pages.

d. Federal Register/Vol. 72, No. 145/July 30, 2007, reissued to the public to file for hearing.

e. Hearing on Erwin Nuclear Fuels Services, before the Subcommittee on Energy Conservation and Power, Committee on Energy and Commerce, House of Representatives, Ninety-Ninth Congress, Second Session, September 18, 1986, Serial No. 99-178, 283 pages.

f. News time-lines, Nuclear Fuel Services, Inc.

g. March 28, 06 LPR for NFS, Inc., Docket #70-143.

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h. NRC Inspection Report #70-143/2006-006, June 7, 2006, Memorandum to: William B. Gloerson, Leader, NFS Special Inspection Team dated March 10, 2006.

i. Union of Concerned Scientists, Testimony before subcommittee on Clean air and Nuclear Safety, Committee on Environment and Public Works, U. S. Senate, Oct. 3, 2007, David A. Lochbaum, Director, Nuclear Safety Project.

j. Subcommittee on Clean Air and Nuclear Safety Hearing entitled "The Nuclear Regulatory Commission Reactor Oversight Process," Oct. 3, 2007, Senator Bernard Sanders.

k. Oct. 11, 2002, Environmental Assessment and Finding of No Significant Impact, Docket 70-143.

2. The NRC classification of comments pertaining to chemical Spill in March 2006

The Official Use Only (OUO) classification was abnormal and possibly illegal and denied me my rights under the Atomic Energy Act and the Constitution of the United States. I have a voice, but was denied the use of free speech by this "secret," arbitrary, irregular and capricious OUO classification of non-Naval-Reactor, BLEU-project documents. It harmed me to be kept in the dark. That harm gives me standing to be heard by this Panel.

NRC secrecy regarding Confirmatory Order that was unknown to us until Congress was told over a year later because of 2 abnormal occurrences in one day and that could have caused a criticality and a nuclear chain reaction, denied me my right for over a year following NFS's secret Highly-Enriched Uranium (HEU) accident to request a hearing on the Confirmatory Order (C.O.) that was also kept secret. (Ref: Letter from the U. S. House of Representatives, Rep. John D. Dingell, Chairman, Committee on Energy and Commerce, and Rep. Bart Stupak, Chairman, Subcommittee on Oversight and Investigations, to Hon. Dale E. Klein, Ph.D. Chairman, U. S. Nuclear Regulatory Committee). And, when the spill and Confirmatory Order were made public, I was again harmed by my government's repeated failure to protect me from this hazardous company which, of course, agreed to arbitration to keep the lid on the cover-up of its HEU accident – a cover-up that benefited both NFS and the NRC.

Further reference the Confirmatory Order: and the Hearing on Erwin Nuclear Fuel Services before the Subcommittee on Energy Conservation and Power, Committee on Energy and Commerce, House of Representatives, Ninety-ninth Congress, Second Session, Sept. 18, 1986, Serial No. 99-178: On page 81, Rep. Edward J. Markey stated, "It goes without saying that the NRC is also cognizant of classified information. Because of the Navy's concern, I do want to remind witnesses that information that leaks, spills, accidents, and contamination have occurred is NOT classified, while detailed information on the Navy's fuel, or equipment and on the manufacturing process IS classified, and to keep that in mind while testifying".

Regarding the C.O. and the "secret OUO" classification, letter dated 8-22-07 to the Honorable Bart Stupak, U.S. House of Representatives, Chairman, Subcommittee on Oversight and Investigations, Committee on Energy and Commerce, from NRC's Honorable Dale E. Klein, page 3, question 9 asks "to provide all communications between NRC and DOE Naval Reactors pertaining to this policy.

Answer: 1. May 10, 2004 letter form DOE Naval Reactors requesting removal of docket files for NFS and BWXT from public access (classified Confidential - not included here) NOTE: House Energy and Commerce Committee, Subcommittee on Oversight and Investigations staff with appropriate clearance reviewed this document on July 10, 2007

2. June 18, 2004, letter from NRC responding to the Navy Reactors request (ML041530065)
3. July 1, 2005, email from B. Gleaves, NRC, transmitting revised communications plan.
4. Summary of closed meeting on June 6, 2007 (ML071590117)
5. June 19, 2007 email from K. Ramsey, NRC, summarizing call with Naval Reactors. A total of one letter from DOE NR to NRC, a reply from NRC on June 18, 2004, and an email on July 1, 2005, was all the effort it took to get the apparently UNQUESTIONED "secret" policy that has violated over 20,000 American citizens, taxpayers and voters rights under the Atomic Energy Act and the U. S. Constitution.

To be exact, that's 20,000 American citizens and voters – or everyone who lives in our area -- whose rights were violated not once by the C.O., but 28 times because of these 28 license changes and amendments we were not told about for 3 years. That is a lot of violations of the Atomic Energy Act (AEA) and the Constitution of the United States. Ref the C.O., I would think that a violation of rights under the AEA and the U. S. Constitution for 20,000 people on one day would be sufficient. Could it be that NRC or the NRC staff was complacent in not questioning the suitability or warranted use of the "OUO" secret status on all documents concerning NFS? Someone dropped the ball. Or was it just the easiest thing to do? That violates my rights and gives me standing.

I question if the C.O. is sufficient for this licensee with a long, long list of spills, accidents, releases, fires, explosions and mishaps that have occurred with regularity over the last 50 years. (See attached time-line of news articles regarding Nuclear Fuel Services, and this is just a few).

The "NRC retains ultimate responsibility for its policy regarding public access to records pertaining to its licensing and enforcement responsibilities within its custody and control," per Luis A. Reyes, Executive Director for Operations, letter dated 8-22-07 to Honorable Bart T. Stupak, Chairman, Subcommittee on Oversight and Investigations, Committee on Energy and Commerce, U. S. House of Representatives, response to questions regarding the NRC policy for designating information as OUO, Page 1-2.

Because Luis Reyes doesn't require NRC staff to enforce government regulations – as demonstrated by the Confirmatory Order – I don't have any confidence whatsoever in

Mr. Reyes, his staff, or any agreement that he and the licensee agreed to behind closed doors. The Confirmatory Order is not an enforcement action, so don't accuse me of telling the NRC that it needs to have stricter enforcement. The Confirmatory Order was nothing more than an agreement between government and industry to keep NFS's March 6, 2006 accident and the BLEU project's danger completely covered up.

The motto of one of our local newspapers, the Johnson City Press, is "what you don't know will hurt you". I have been harmed by the Confirmatory Order because it was negotiated behind closed doors with out the involvement of any elected officials who represent me. Not even our local hazardous materials or public safety personnel were notified of the accident, or involved in the safety culture evaluation.

I continue to be harmed by the Confirmatory Order because it let NFS continue to operate in an unsafe manner. Specifically, even though the company does not have a safety culture and won't have one for four long years, if then, NRC is letting the BLEU project continue to threaten my health and safety. As a result, this poses a serious harm to my health caused by worrying about what the NRC will let happen next at NFS.

3. The licensee's history of violations involving NRC regulations

Ref: Attached timeline of news articles regarding NFS. The timeline proves that NFS never had a safety culture, and that the Confirmatory Order failed to recognize NFS's pattern of non-compliance with NRC regulations.

For hundreds of years, human civilization has been living with the knowledge that "those who cannot remember the past are condemned to repeat it". That is, all of human civilization but the NRC. Instead, when it agreed to the Confirmatory Order, the NRC didn't even consider NFS's most recent problems – the lack of a detailed criticality safety analysis which was noted in the February 6, 2004 LPR. This is not an issue of the Confirmatory Order being an insufficient enforcement action. But instead, it's a matter of the NRC failing to really study the following before it agreed to the C.O.:

(1) NFS's history of non-compliance
(2) NFS's prior near criticalities
(3) NFS's numerous losses of fissile material – HEU and Plutonium
(4) Terrorist surveillance of NFS on at least two (2) occasions.

What did the NRC do instead? It agreed to a cover-up of the March 6th accident and downplayed all of NFS's past explosions, fires, spills, and losses of weapons-usable fissile material.

Ref: February 6, 2004 LPR from Jan. 20, 2003 - Jan. 23, 2004. The Licensee Performance Review (LPR) states that incidents occurred during the evaluation period where certain safety controls were not fully understood by workers. Among these areas, the review reported a detailed criticality safety analysis was not performed when changes to existing equipment and procedures were made in order to process licensed materials. NRC reported approximately 25 grams of sample material identified as uranium metal shavings ignited inside of a glass vial after being shaken by an operator while a sample

was being extracted. The report noted that NFS only focused on whether or not material was pyrophoric. Dan Rich, senior resident inspector at NFS said "this caused a lot of concern because if the quantity was larger it possibly could have produced a combustion event." Loren Plisco, NRC deputy regional administrator for Region II added that "the BLEU program's success lay in meeting NRC compliance." (See Elizabethton Star, April 21, 2004) By the way, the NRC-speak term, "combustion event", is what we call an explosion or fire.

Ref: May 30, 2007, U. S. NRC Discussion of Security Issues, 10:30 a.m., closed session, 30-page report of presentation to Commission by NRC and NFS, page 7-8.

Ref: March 28-06 LPR of licensed activities for NFS, Inc., Docket Number 70-143, evaluated performance beginning Jan. 23, 2005 through Feb. 4, 2006, "a large number of these deficiencies are in the blended low-enriched uranium (BLEU) processing operations, where your efforts to improve safety have either not been implemented or were not effective." In addition, BLEU operations continued to experience problems after the LRP period ended such that a Confirmatory Action Letter was issued on March 18, 2006. "To date, your efforts have not resulted in consistent conduct of licensed activities in accordance with regulatory requirements." These supplemental inspections will be primarily in the areas of criticality safety and facility modifications. Also,"the deterioration of the overall safety performance of the facility has warranted the next LRP to be conducted in six months."

Ref: Confirmatory Order. From Jan 23, 2005 to Feb. 4, 2006, licensee had 62 failures and program areas needing improvement. Six of these failures were for failure to properly control Special Nuclear Material, Performance Area Safeguards, Pg. 7. The only area the licensee passes with straight A's is Special Topics (licensing activities), and this was BEFORE the accidental spill.

Since the NRC relies on licensee to self-police and report on themselves unless an accident like this occurs (one that had to be turned in to Congress because of 2 abnormal occurrences in one day that could have caused a criticality) the public never knows about. When we are told, it is always said to be "nothing to worry about" until we find out the fact a year or 2 later.

This accident was a No. 2 on the INES Scale, Ref: page 10 of May 30, 2007 NRC-NFS closed meeting. I am curious to know if the "Eight severity level 3 issues at NFS over the last year or so" were reported to Congress also? (See page 12, May 30, 2007 meeting.) I would like to know what they were.

Ref: NRC Inspection Report No. 70-143/2006-006 dated June 9, 2006. Memorandum to: William B. Gloersen, Leader, NFS Special Inspection Team, dated March 10, 2006.
The accidental spill on March 6, 2006, could have been easily prevented.
If, as stated at the NFS Training Center Meeting on Sept. 17, 2007, 750 people work at NFS, multiply 750 times 24 times 7 days a week times 365 days a year times 2 years.

That is how many opportunities were missed at NFS to find ONE thing wrong out of the numerous root causes and contributing factors to the accidental spill of March 6, 2006.

NRC resident inspectors had the same number of chances as did the NRC when they pointed them out to NFS in the March 28, 2006 LPR, Docket #70-143. Since the NRC deputy inspector Loren Plisco (referred to on page 5) said the BLEU program's success lay in meeting NRC compliance, and Ref. on page 7 and 8 of the may 30, 2007 NRC and NFS closed meeting agree all the problems are on the BLEU side. There are two permanent resident NRC inspectors onsite. (See Agency Action Review Meeting, consult with NMSS, enhanced oversight) Nuclear criticality safety has been at issue at the BLEU facility from day one. Isn't the answer to this extremely dangerous and potentially deadly experiment shamelessly obvious? By eliminating the complication (BLEU) you eliminate the danger. Problem solved.

4. Whether the licensee is a privately-operated company or where it is government operated. Answer: Private, in name only. Privately owned and supposedly regulated by the NRC and the potentially disastrous (BLEU) project is a seeming government operation. The DOE, DOD & TVA all have their fingers in the cookie jar, and the Confirmatory Order – written as a government-industry cooperative agreement – proves how powerful the government push for the BLEU process is. When the DOE wanted downblending to go forward, it made an arbitrary finding in 1996 that there were no significant environmental impacts. And when the DOE decided it wanted downblending to happen in Erwin -- whether or not NFS was a hazard to public health and safety – did it tell the NRC to issue those three findings of no significant impact for the BLEU process? Is the reason the NRC won't take a hands-on approach to regulation of the BLEU project because of the DOE, DOD & TVA? I am harmed by this aspect of the Confirmatory Order because I thought my country was a capitalist system, not socialist or even fascist. Isn't that what you call a system when you can't tell the government and industry apart?

5. A claim that the NRC is failing in its core mission, including its mission to protect public health and safety. Ref, U. S. House of Representatives Subcommittee Hearing, p. 86. "If our regulators or requirements aren't high enough to ensure a higher level of operations, maybe we ought to take a hard look at what our requirements are and how we have been doing with ensuring compliance. The enforcement history is not good when you compare this facility with others in this country and abroad, I think that there is a clear difference in terms of the quality of operations. We ought to be working to ensure substantial improvement here." Testimony of James K. Asselstine, Commissioner, NRC, Ref, U. S. House of Representatives Subcommittee Haring, Page 85. "The responsibility for safe nuclear operations at a nuclear fuels facility such as NFS is an important task for the licensee. The NRC's regulatory programs are intended to ensure that the licensee meets this responsibility." Testimony of Lando W. Zech, Jr., Chairman, NRC.

Ref: Union of Concerned Scientists, testimony submitted to Subcommittee on Clean Air and Nuclear Safety, Committee on Environment and Public Works, U. S. Senate, October 3, 2007, pages 1-8. David A. Lochbaum, Director, Nuclear Safety Project gave the NRC

failing grades because it didn't take "appropriate actions to prevent degradation of safety and to promote safety improvements" and because it did not perform "its regulatory functions in a timely and cost-effective manner, as well as in a manner that ensure the confidence of the organizations, the general public, and the government".

Ref: Subcommittee on Clean Air and Nuclear Safety Hearing, entitled "The Nuclear Regulatory Commision's Reactor Oversight Process, Oct. 3, 2007, Senator Bernard Sanders said: "Public safety must be #1 when it comes to nuclear power and I have serious concerns that the aging fleet of nuclear plants in this country needs much more oversight than it currently gets to ensure that public safety remains the focus. Critical times at nuclear plants call for special inspections, both to ensure the public safety but also to boost public confidence. When a nuclear plant has a history of safety problems, that is also a critical time."

I question again if the Confirmatory Order – a government-industry deal to continue the cover-up of slipshod regulation of dangerous operations -- is sufficient for this facility and ask that it be revoked and cancelled so the citizens can vote if they want this plant to continue in the potentially deadly BLEU project that created the accident of March 6, 2006 that could have caused a criticality and a nuclear chain reaction.

Also, the C.O. does not cover nor take into account the possibility of a terrorist attack. We are a main terrorist target here for three main reasons:

1) NFS
2) Studsvik
3) CSX.

The NRC is well aware that NFS and Studsvik, Inc., a radioactive waste processing plant, are side-by-side) with only a 3 ft. thick concrete and lead wall between the two facilities. Studsvik is on NFS property, and sits not only beside NFS but also next to a main terminal for the CSX railroad. Neither the C.O., nor the Environmental Assessment (EA) for the BLEU Processing Facility where the HEU accident too place, took into consideration the cumulative effects of the three industries on the environment in so small an area. Since the Confirmatory Order did not consider the impact of a terrorist attack on NFS, Studsvik or CSX or on all three at once, I am harmed by it and the C.O. should be vacated.

When Michael Weber from the NRC was here at the Town Hall meeting on Sept. 17, 2007, he said, "When it comes to terrorist attacks, we say they will happen. The probability is 1." The Ninth Circuit Court of Appeals ruled that the NRC must take into consideration terrorists attacks in Environmental Impact Statements and Environmental Assessments. This has never been done at NFS.

My husband worked for this railroad for 42 years. This is a railroad town also. We are well aware of their cargo. The last EA and finding of No Significant Impact for License Amendment request dated October 11, 2002, BLEU Uranium Preparation Facility, is absurd and preposterous. On page 4, "4.1 Impact of Proposed Action", the feeble EA states that "Under accident conditions, higher concentrations of materials could be

released to the environment over a short period of time." ... "Based on the information provided by NFS and summarized in the EAs referenced above, action appear to be sufficient to ensure planned operations will be safe. Detailed accident analyses have been performed by NFS in an integrated safety assessment (ISA). NRC's review of the ISA will ensure compliance with the performance requirements in 10 (CFS Part 70). This will provide additional confidence that potential accidents have been adequately evaluated before making a decision on the proposed action.

I guess your "safety controls" did not work! They might have if they had been corrected like they were supposed to be and like NFS told the NRC they were. Doesn't this mean that NFS actually lied to the NRC? Is lying to the NRC allowed since NFS self polices and inspects themselves and then reports to the NRC? I wonder what "other" things NFS has not been telling the NRC?

Ref: March 10, 2006 Report: "NFS management initially characterized the event as a routine spill. The enclosure was not approved for Special Nuclear Material (SNM) and had been posted to prohibit SNM since Nov. 10, 2005. On March 6, NFS management recognized that a spill of highly-enriched uranium solution had occurred into an unapproved and unfavorable geometry enclosure and that NO SAFETY CONTROLS OR ITEMS RELED ON FOR SAFETY (IROFS) WERE AVAILABLE TO PREVENT A NUCLEAR CRITICALITY ACCIDENT.

I think I just heard that other shoe drop. No wonder NFS waited to even tell the NRC until March 7, 2006, (and then only at the insistence of NRC senior resident inspector). NFS wanted to wait unto March 8, 2006 to notify the NRC. Then on March 7, 2006, "the project manager notified management at the morning meeting that he planned to immediately remove the enclosure." Again, the NRC resident inspector intervened to preserve physical evidence necessary for the root cause investigation. NRC management formally requested the enclosure remain "as is" for inspection.

In my opinion, the NRC is NFSs' enabler. At least you were told - a day late - but that's a lot better than this town received. With NFS, Studsvik, and CSX combined, plus the ruling of the Ninth Circuit Court of Appeals and high probability of a terrorist attack, NRC's finding of no significant impact is arbitrary and capricious. An Environmental Inpact Study (EIS) needs to be done with a safety culture firmly put in place and include the probability of a terrorist attack on NFS. Do I have trust and have confidence in NFS and the NRC? NO! The question is should the NRC still trust NFS on EAs or anything? NO!

6. <u>A Claim that there have been little or no consequences to the licensee from past violations of NRC regulations.</u> See answer to Number 3 and Number 5 previously stated and news timeline enclosed. I am personally harmed by NRC's failure to enforce regulations. The C.O. is another example of that failure. The Order proves that NRC is an agency that refuses to be held accountable, so it engages instead in hiding accidents at licensed facilities and in closed door dealmaking with licensees.

7. An allegation that a component of the CDC was unable to perform an adequate health assessment recently. The Public Health Assessment for Nuclear Fuel Services, Inc., "ATSDR considers the site an Indeterminate Public Health Hazard". (See May 29, 2007 final report on their website.) NFS is a public health HAZARD – not a risk, not a threat, not a possible cause of sickness and death. Let me repeat that: NFS is a HAZARD.

8. Speculation over health effects related to the March 6, 2006 HEU spill and another chemical spill in 2000. Ref: News Timeline enclosed. Ref: Johnson City Press 3-30-05 "When a new process proposes to increase plutonium discharges into the Nolichucky (River) by 5.8 million%, thorium discharges by 210,000% and increase uranium by 16.6%, we believe the public's interest were best served if that hard look was done by the regulators." The Sierra Club said NFS's own documents show the BLEU proposal "poses significant environmental hazards that must be studied carefully and reported to the public in an environmental impact statement. Hazards include chemical spills, radioactive gas releases, explosions, and uncontrolled chain reactions."

Was an EIS (comprehensive) done here on March 7, 2006 when the NRC was finally notified by the licensee? Ref, C.O. "Failure of NFS management to make an NRC notification with timeliness requirements of 10 CFR 70, Appendix A (APV 2006-006-01). Ref, C.O. on March 8, 2006, NFS failed to meet the performance requirements of Section IV of a July 2000 C.O. modifying license and NFS Safeguards Contingency Response Plan, Revision O, dated Oct. 26, 2004, Section 3.3, Module 3, subparagraph 3.31, during a force-on-force exercise (F.A.-06-133).

Ref: C.O. No. 5, III, the Sept. 28 and Nov. 30, 2007 meetings between NFS and the NRC on Conflict Resolution. Alternate Dispute Resolution (ADR) is a process by which a neutral mediator, with no decision-making authority, assists the parties in reaching an agreement to be a contributor to the recurrence of violations. During the ADR sessions, the parties discussed apparent violations and NFS's overall enforcement history. Given the number and repetitive nature of some of the apparent violations, the parties acknowledged: 1) past disposition of violations via the enforcements policy had not resulted in NFS development of corrective actions capable of preventing recurrence of violations; and 2) a deficient safety culture at NFS appeared to be a contributor the recurrence of violations. Did NFS not just tell the NRC that NFS would do anything it liked and that the NRC was not capable of preventing NFS from recurring violations while at the same time admitting a lack of safety culture at NFS? Isn't this what "we" the taxpayers pay the NRC to protect "we" the people from? Due to these admission from NFS, the abnormal secrecy OUO policy, the accident spill of March 6, 2006, NFS's actions and late notification to the NRC on March 7, 2006, Environmental Impact issues, health concerns, cumulative effects of 3 radioactive and hazardous industries, potential terrorists attacks, and blatant disregard of NFS with respect toward the NRC. I again ask that the Confirmation Order be vacated and the NRC return and address the SNM License 124 with a comprehensive Environmental Impact Statement to determine if it is adequate to protect the public's health and welfare.

The NFS facility is 50 years old. It is past time the NRC helped the taxpayers in this town. After all, Congress created the NRC to protect the public and environment also. Every decision NFS makes effects us. Every spill, accident, release, fire, explosion effects us. Every decision the NRC makes effects us. If the NRC wants the trust and confidence of the public and the government, that trust needs to be earned. With that trust comes respect and confidence. The kind I would like to have for the NRC. This can be done but only if the NRC desires to have the trust and confidence of the public and the government.

For what it's worth, if any accident at NFS does cause one or more criticalities with a nuclear chain reaction, the fault would not only lie with NFS's shortcomings. NRC, as NFS's enabler, would bear the equal burden knowing it could have been prevented if they had been diligent in their regulatory duties and responsibilities. Can the NRC live with the knowledge they abdicated their responsibilities after so many years of warning signs from this facility? That would, in my opinion, be a heavy burden to live with the rest of your life. The NRC has two choices: the high road or the low road. That's more choices than the citizens in this town have.

Sincerely,

Wanda Sue Kelley

Wanda Sue Kelley

Enclosure: News Timeline
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News Timelines - Nuclear Fuel Services (as of Oct 18, 2007)

1957 Davison Chemical (founders): T. C. Runion, Charlie Taylor, Ed Johnson

1964 NFS Owners, W.R. Grace and American Machine and Foundry

1969-1984 NFS Owners - Getty Oil and Skelly Oil

1977 NFS plant acknowledged to NRC that it released an estimated 5 pounds of enriched uranium and a microscopic trace of plutonium through smoke stacks. Plutonium was left over from 1972. Radiation maps submitted to NRC indicated uranium particles from plant are deposited within a 5-mile circle of the plant, The Atlanta Journal and Constitution, page 20A.

12/77 Waste water treatment facility installed at NFS (prior to that water stood in unlined ponds on plant property. After a period of time in the settling ponds, the effluent used to flow into Martin's Creek, a small local trout stream which empties after a few hundred yards into the Nolichucky).

4-30-78 Nuclear Plant Leaks Waste, Raises fear on cancer rate - 250 lbs of enriched uranium gradually poured into the Nolichucky without notifying fisherman or Tennessee hatchery, which stocked the river with 2 million fish. The Atlanta Journal and Constitution, page 1A.

4-30-78 Cancer death figures for Unicoi County, assembled by a reporter with the help of a cancer expert, show rates to be about twice what it was when the plant came here in 1957. The intestinal cancer rate is substantially higher than that in adjacent counties. Water in a spring flowing from the factory grounds was found to contain 700 times the natural-background radiation in the area. The sample was taken by visiting Cox Newspaper reporter and tested by the NRC at government radiation laboratory in Idaho. NRC acknowledged recent Environmental Assessment of Erwin plant did not mention radium or include any tests on radiation levels in local fish. The NRC also acknowledged that Erwin's ground water has never been tested to see whether it contains radioactive contamination. A sample of muck taken from the bottom of the Nolichucky downstream was found to contain traces of radium. Jonesboro gets its municipal drinking water directly from the Nolichucky. NRC documents on file establish plant discharges 50,000 gallons of waste water a day containing a few parts per million enriched uranium. Death records obtained from Tennessee State Center for Health Statistics in Nashville indicate mortality rate from intestinal cancer as much as 50% higher in Unicoi County than adjacent counties. Statistics cover a 3-year period in the mid-1970's and similar 3-year period 20 years ago. The Atlanta Journal and Constitution

5-1-78	Erwin plant poured radioactive material into water, paper says, Johnson City Press
5-2-78	Nuclear waste in Erwin not hazardous, agency (NRC) says, Johnson City Press
8-8-78	Anti-nuclear protesters told to 'get out of town', Johnson City Press Chronicle
6-19-79	NRC report "gaseous releases of uranium between June and August 1979 were understated by 766 grams (about 1 pound, 11 ounces)." An understatement of about 20 pounds of uranium in liquid discharge was noted in report. According to plant officials, the liquid discharge travels from the plant to wastewater treatment and then into the Nolichucky, Johnson City Press Chronicle,
7-2-79	NRC inspector, Tom Lee, says 2 to 5 grams accidentally released from the stack, Johnson City Press Chronicle
7-11-79	Radiation effects subject of talk, Johnson City Press
8-10-79	Nuclear vapor leaked into air at Erwin plant, Tom Lee, resident NRC inspector says 300 grams of U-235 compound called uranium hexaflouride Johnson City Press, Oct. 29, 1980 (reported 2-1/2 months after it happened)
8-10-79	Nuclear leak within NRC limit, Johnson City Press
8-11-79	No threat seen in nuke accident, Johnson City Press
9-18-79	NFS closing to check uranium inventory loss, Johnson City Press
9-19-79	NRC closes Erwin plant; uranium lost, Johnson City Press
9-20-79	NRC doing aerial survey, Johnson City Press
9-21-79	245 pounds lost since '68 NRC says, Johnson City Press
9-21-79	No accounting error found yet at NFS (inventory covering June 15-August 14, 1979, revealed 19.8 pounds of uranium is unaccounted for). NRC will not disclose how much unaccounted for. Plant closed. Johnson City Press
9-30-79	NFS shutdown may result in layoffs of workers, Johnson City Press
10-6-79	City couple turns over nuclear material to NRC/Sanders, Johnson City Press

10-11-79	Uranium believed not stolen, Johnson City Press
10-12-79	NRC maintains no missing fuel taken, Johnson City Press
10-16-79	Suspicious material not dangerous, Johnson City Press
11-2-79	Results of probe into NFS loss of fuel due today, Johnson City Press
11-3-79	Some uranium found, plant remains closed, Johnson City Press
11-17-79	Search continues for uranium at Nuclear Fuels Plant, Johnson City Press
11-27-79	No NRC report on lost uranium, Johnson City Press
12-6-79	Nuclear Fuels probe ends, Johnson City Press
12-8-79	A classic dilema/editorial, Johnson City Press
1-15-80	NRC to meet to discuss fate of Erwin plant, Johnson City Press
1-30-80	NRC official says no announcement at hand, Johnson City Press
1-80	Before any of the uranium had been accounted for, in January 1980, the NRC changed its standards -- allowing more uranium to remain unaccounted for -- in order to reopen the plant. The Tennessean, January 26, 1981 **(reported one year later)**
3-18-80	Amount of lost uranium kept secret, Johnson City Press
4-05-80	Nuclear Debit Over past 10 years, approximately 246 lbs of material unaccounted for. The Nation
4-26-80	Latest Nuclear Fuel loss 'within limits', Johnson City Press
5-12-80	Nuclear Fuel Services, Inc. planning new construction, Johnson City Press
5-13-80	Nuclear Fuel Services plans new construction, Johnson City Press
6-27-80	NRC denies environmental group public hearing on NFS, Johnson City Press
6-28-80	Group wants to move NFS plant, Johnson City Press
7-29-80	Nuclear Fuel Services has minor fire, Johnson City Press

9-26-80	NFS accidentally vented small amount of uranium due to malfunctionintg equipment. Johnson City Press, January 28, 1981 **(reported 1 year and 5 months later)**
10-16-80	Appeals court to hear groups plea to have Nuclear Fuel Services, Inc. moved, Johnson City Press
10-18-80	Congressional aide praises NFS plant. Johnson City Press
10-20-80	Gas released from NFS within limits, NRC confirms radioactive gas release "not normal." Johnson City Press
10-29-80	Missing uranium explained by NRC. NRC states that 48 lbs. Of uranium reported missing from NFS earlier this year was primarily lost through larger than reported releases of gas and liquid waste and slow buildup of uranium in equipment. Al Gibson, chief of the radiation support section of the NRC office in Atlanta said "release of radiation from NFS was in one sense more hazardous than the accident at Three Mile Island." Johnson City Press
10-29-80	Unicoi group objects to request to move NFS. Letter from Unicoi County Chamber of Commerce to Mr. John F. Aherne, Chairman, U. S. Nuclear Regulatory Commission.
10-29-80	NRC releases report of missing uranium at Nuclear Fuel plant, Johnson City Press
11-1-80	Report offers answers about missing uranium. Estimates re-evaluated. Estimates of gaseous releases have varied from 300 to 3,000 grams. NRC spokesman said NFS leaks had not violated plants radiation limits. Johnson City Press
11-7-80	NRC officials checking figures on NFS, Johnson City Press
11-7-80	Vent damper malfunction at NFS, Johnson City Press
11-25-80	Commission voices support for Nuclear Fuel Services, Inc., Johnson City Press
11-30-80	Nuclear release to be discussed in NRC briefing/Sanders, Johnson City Press
12-2-80	NRC plans meeting in Erwin to explain radiation controls, Johnson City Press

12-3-80	Unicoi County High School chosen as meeting place (for public meeting on December 4, 1980). Report deals with accidental release of uranium gases in August 1979, Johnson City Press
12-4-80	**Public Meeting held by NRC** (30-page transcript is in Archives of Appalachia, ETSU Library), Johnson City Press
12-8-80	NRC says local uranium dangers minimal, Johnson City Press
12-11-80	NFS accidentally vented small amount of uranium due to malfunctioning equipment, Johnson City Press
1-3-81	NRC officials says no announcement at hand. Commissioners considering the loss of undisclosed amount of uranium **reported last September 17, 1980**, Johnson City Press
1-22-81	Is Erwin an Atomic Love Canal? People say the plant has become a nuclear waste cemetery and is a ticking health time bomb.
1-27-81	Radioactivity release doubled allowance, Johnson City Press (see The Tennessean article, 1/80 above)
1-27-81	NRC says no hazard at nuclear plant, Johnson City Press
1-30-81	Fears about radiation eased, Erwin dr say/Jones, Johnson City Press
2-12-81	NRC to grant hearing to anti-nuclear group, Johnson City Press
2-21-81	New nuclear facility may have impact on Nuclear Fuel Services, Johnson City Press
3-18-81	Amount of lost uranium kept secret. NRC says **due to new policy of Department of Energy, amount of uranium reported missing last September** by NFS would not be released. Amount exceeded 19.8 pounds, Johnson City Press
6-23-81	Nuclear Fuel Services, NRC plan to cut emission levels, Johnson City Press
6-25-81	Erwin plant nears deadline for radiation control plan, Johnson City Press
3-3-81	NRC to lower radiation emission at Erwin plant, Johnson City Press
4-26-81	Latest Nuclear Fuel loss "within limits", Johnson City Press

10-21-81	Officials confirm release of radioactive gas at NFS. NRC and NFS confirmed release of radioactive gas "not normal." NRC resident inspector Tom Lee says well below regulatory limits. Johnson City Press
11-29-81	Little progress made at Nuclear plant. CDC begins new study of cancer deaths. 1978 investigation by The Atlanta Journal Constitution revealed NFS plant had been dumping 250 pounds a year of enriched uranium into a nearby river and venting radioactive fallout on surrounding homes. For 20 years, first the Atomic Energy Commission and later the NRC, which now is responsible for monitoring the facility, failed to stop the plant from making the discharges. Atlanta Journal Constitution.
11-30-81	Unicoi County cancer rate target of follow-up study, Johnson City Press
11-30-81	Center studying cancer in Unicoi County, Bristol Herald Courier
12-2-81	Plant repeatedly cited for nuclear safety failures, Atlanta Journal Constitution
2-19-82	NFS chief says uranium not missing, Johnson City Press
5-13-82	NFS head says no uranium missing, Johnson City Press
5-13-82	NFS disputes uranium loss, Johnson. City Press
8-7-82	Workers reprimanded for uranium error, mistakenly ships more than 1,000 pounds of uranium scrap out of plant in barrels they thought were empty, Atlanta Journal Constitution
1-12-83	Hearing date expected to be set for Nuclear Fuel Service protest, J. C. Press
11-23-83	Erwin NFS plant illustrates loss problem. Internal NRC report dated December 11, 1979 and originally classified "Confidential" offers grim assessment of uranium bookkeeping at Erwin. Kingsport Times
12-30-83	NFS officials, union meeting on complaint. Hazardous working conditions cause employees to stage work stoppage saying acid fumes causing nosebleeds of employees. Johnson City Press
12-31-83	Problems at NFS plant resolved says president of Local 011, Chemical and Atomic Workers Union. No comment from company officials, Johnson City Press

1984 Texaco, Inc. (acquires NFS as buyout of Getty Oil)

3-8-86 Safety Issues at Atomic Fuel Plants. Workers complained of frequent high levels or radiation in work areas and lunch rooms, of spills and accumulations of uranium dust and various ailments thought work-related in Tennessee plant NFS. "NRC concedes it does not have resources for strict inspection and relies on the company to report on itself." St. Louis Post-Dispatch

9-18-86 Erwin N-Fuel plant called nightmare. The Nuclear Fuel Services plant in Erwin is the most dangerous of five fuel production plants because of inadequate controls over radioactive materials, a House subcommittee has found, The Knoxville News Sentinel

9-19-86 Nuclear Plant said to Ooze Radiation. A nuclear plant in Tennessee is oozing radioactive contamination and the NRC is doing a poor job of overseeing its operations, says Rep. Edward J. Markey. The report calls it quite simply the most dangerous uranium fuel production plant that the NRC licenses. Report also says the commission has failed to crack down on the plant operated by Nuclear Fuel Services, Inc. The commission's chairman Lando Zech, said his agency's inspections in the last three years had identified significant deficiencies in the areas of nuclear criticality control, nuclear materials safeguard and radiological controls, St. Louis Post

1987 NFS Services, Ltd, a private Atlanta-based, limited partnership, led by Paul Schutt, Florida, purchased NFS from Texaco

3- 90 Inadvertent transfer of material at NFS of more than four kilograms of uranium, Kingsport Times, January 26, 1991 **(reported nearly 1 year later)**

8-7-90 Nuclear Fuel Service plans to treat three ponds encounter snag, Kingsport Times

8-16-90 Erwins Nuclear Fuel Services awarded four year contract, Kingsport Times

10-14-90 EcoTek, Inc, a subsidiary of NFS, stresses resource recovery for radiological work. Kingsport Times

11-30-90 NFS discovers 395 grams of uranium-235 in a waste batch which exceeded licensee's administrative criticality safety limit of 350 grams. Kingsport Times, Jan. 26, 1991 **(reported over 1 year later)**

1-14-91 Materials from NFS plant more valuable than gold. NFS in process of replacing "scrap plant" with high enriched fuel recovery facility. Kingsport Times

1-26-91	Resident inspector to be posted at NFS. NRC to place full time inspector at NFS due to NRC staff concerns about criticality safety. NFC is currently undergoing performance improvement program, including analysis of all production areas, to guarantee criticality safety. Kingsport Times
4-17-91	NFS cited in inspection for storing chromium and radioactive hazardous waste without permit. Two days later, NFS sends letter to Dept. of Health and Environment to modify permit to allow storage on site. Public only given 3-1/2 weeks to comment on modification while field office (for the Dept. of Health & Environment) knew about violation in April. East Tennessean, 11-22-91 **(reported 8 months later)**
8-15-91	NFS fined in alleged violations. The U. S. Environmental Protection Agency assessed a $993,461.00 fine against NFS, Inc., claiming the company treated hazardous waste without a permit between 1987 and Feb. 1990, Johnson City Press
10-26-91	NFS asks for modified permit on waste storage. Company already has 230 drums of mixed waste on property (about 60 cubic yards), Johnson City Press
11-20-91	NFS says storing waste is its only option. Needs to expand by 40%. DEC officials not present at meeting. Waste consists of 120 barrels of chromium contaminated material, Johnson City Press
7-17-92 & 7-19-92	NFS spills small amount of radioactive material into Banner Spring Branch, a small creek that feeds into the Nolichucky River. Also about 100,000 gallons of uranium and thorium contaminated water from inactive settling ponds ran into storm sewer and flowed off site, Johnson City Press
7-24-92	NFS has plans to convert uranium into Nuclear reactor fuel, Johnson City Press
12-10-92	Sept. 10 explosion and fire at NFS prompts NRC to schedule enforcement conference. NRC inspection team states inadequate training and procedures contributed to the fire which had erupted in the plant's highly enriched uranium recovery facility, Johnson City Press
12-10-92	NFS has accidental transfer of waste liquid uranium solution. Was not reported to State Dept. of Environment and Conservation's Division of Radiological Health because of no release to environment. If concentration of uranium within the solution had been higher when

	material was transferred to "improper container" it could have caused "inadvertent criticality" with radiation release, Johnson City Press
12-15-92	Hearing focuses on modification of storage at NFS. Under permit, NFS would be allowed to store 514 fifty-five gallon drums of mostly mercury, chromium and spent solvent contaminated wastes, Johnson City Press
1-93	Accidents at NFS result in proposed penalty from the NRC for $37,500.00, Johnson City Press
2-19-93	NFS won't protest NRC fine for accidents, NRC claims resulted from violations of NRC requirements, Johnson City Press
5-29-93	Twenty one additional layoffs announced by NFS leave company with 550 employees, Johnson City Press
7-29-93	NFS agrees to pay $20,000 to EPA to settle dispute over alleged violations concerning identification of hazardous waste, Johnson City Press , **(two years later)**
10-5-93	NFS gains assistance of Quillen to continue fuel production, Johnson City Press
6-8-94	NFS, Russia accord on fuel conversion. Formal documents signed, Johnson City Press
11-20-95	NFS and Studsvik USA announced their intent to seek a partnership agreement to build low-level waste treatment facility in Erwin, Business Wire
1-5-96	U. S. to resume reprocessing of Nuclear Fuel, New York Times
4-10-96	Fire at NFS subject of NRC Review. NRC sends special augmented inspection team to NFS plant to review circumstances associated with fire on April 2, 1996. The potential safety significance of the event prompted NRC officials to send a team of inspectors and two inspectors from NRC's headquarters in Washington for detailed review of circumstances surrounding fire, The Erwin Record
4-17-96	NFS team at work on fire incident assessment, future safeguards pertaining to fire on April 2, 1996 that began in an incinerator and spread to ventilation ducts outside building. NRC's initial findings said cause of fire stemmed from failure of employees operating the incinerator to conduct two important system operations and safety checks. Also stated corrective actions ordered by NRC following a **similar fire in 1983** were

either not done or had not been maintained over the years, The Erwin Record

Note: We currently have no information on the 1983 fire referenced above

8-23-96 NRC hits NFS with $12,500 civil penalty in connection with fire April 2, 1996, which began in an incinerator and spread into duct work atop the roof of a building on the NFS compound. NFS cited for failure to implement configuration control and management system, failure to implement a preventive maintenance and surveillance program for components essential safety, failure to implement adequate training program for personnel operating the incinerator equipment. Collectively, the violations represent a significant regulatory concern because they are indicative of a significant lack of attention to licensed responsibilities, Johnson City Press

12-14-96 Concern expressed over processed uranium by NFS (transportation, storage, environmental impact and settling ponds) because NFS is situated on a floodplain, Mailbag, Johnson City Press.

7-8-99 NRC renews license for Nuclear Fuel Services Facility in Tennessee. License will extend until July 31, 2009. NRC conducted comprehensive review of the safety of NFS operations. Results are documented in an NRC safety evaluation report which finds there is reasonable assurance that the activities authorized by the issuance of a renewed license will not constitute undue risk to health and safety of the public or on-site personnel. Environmental assessment, also prepared by the NRC, concluded that license renewal will not result in significant impact to human health or the environment. NRC News, U. S. Nuclear Regulatory Commission, Washington, DC.

4-3-02 Plutonium, other contaminants found offsite near NFS. A 13-acre plume of chemical and radioactive contamination, including plutonium, identified in groundwater located offsite from NFS in Erwin. NFS sampling results from monitoring wells located along property boundary line, Plutonium 234, 238, 239/240 and 241, were detected in groundwater samples as early as Sept. 1993. In Nov. 2001 radioactive plutonium, thorium and uranium were observed in monitoring wells located in county Industrial Park which parallels NFS on the northwest side. Technetium-99, which does not exist in nature and is radioactive, also was detected in two of nine offsite wells. All were within levels considered safe. Total uranium present in on-site groundwater was above EPA's safe drinking water standard. Offsite chemical contaminants leaving NFS property have federal officials concerned. PCE, TCE, cis-1,2-DCE and vinyl chloride all were detected beyond acceptable limits. PCE was found in seven of nine

offsite wells during fourth quarter 2001. Highest level charted was 1.403 mg/L(milligrams per liter); 0.005 mg/L is considered safe says EPA. According to future projections, the uranium plume will be almost identical in 2003 to what it is now with concentrations dipping below maximum contaminate level by year 3850. EPA's Leo Romanowski states he wrote a letter to NFS several years ago telling the company it needed to start looking at offsite migration and source remediation. State and Federal officials say NFS is meeting all compliance standards and the contamination poses no threat to public health, Elizabethton Star.

1-8-04 NFS opposes extension for public response. Asks NRC to deny request to extend public response to the company's third license amendment request for the Blended Low-Enriched Uranium (BLEU) complex in Erwin. NRC waited until Dec. 24, 2003 (Christmas Eve) to publish notice of opportunity to request hearing on NFS application, Elizabethton Star.

1-18-04 NRC grants 10-day extension for public response period to a license amendment request submitted to NRC by NFS, Inc., on October 23, 2003, No. SNM-124. NRC failed to post the amendment on the Federal Register until Dec. 24, 2003.

2-3-04 Motion filed in sludge suit by representatives of Erwin Utilities and Scott Street, both defendants in pending lawsuit limiting scope of inspection and testing of Erwin's sewage treatment works. Lawsuit filed by Danny M. and Michael Seth Jones who worked as farmhands and suffered health problems because of sewage sludge distributed for use as fertilizer. Since 2001, Michael Seth Jones health has deteriorated. February 2002, doctors performed a sternotomy. Cultures taken from each lung showed pathogen Enterococcus Faecalis, which is "a rare gram positive streptoccous species found in sewer sludge." Right lung biopsy showed bacteria Nocardia, which is also found in human waste. A large mediastinal mass was removed along with his thymus, Erwin Record.

2-5-04 NRC plans second onsite inspector for NFS. NFS explains efforts to improve both safety and regulatory compliance with greater emphasis on self-assessment procedures. NRC's Office of Investigations for Region II initiated an investigation April 11, 2003 to determine if an NFS decommissioning supervisor deliberately falsified records documenting the transfer of low-enriched uranium (LEU) solution. Letter dated Jan. 16, 2004, from Region II's Office of Investigations substantiated decommissioning supervisor willfully authorized transfer of LEU solution without conducting required verification and reviews prior to and/or during transfer. The NRC regional administrator (Luis Reyes) said the violation status has been moved into consideration for escalated enforcement action and turned over to U.S. Dept. of Justice to determine if additional actions would be pursued regarding the violations, as was NRC

policy. NRC nor NFS officials openly discussed the controversial Blended Low Enriched Uranium (BLEU) project during the public meeting. Three related license amendment requests seeking to amend the special nuclear materials license held by NFS submitted to NRC for approval pertaining to BLEU project. Private citizens and environmental groups filed petitions with the NRC seeking standing for public hearing. Attorneys for NFS have asked NRC to deny petitioners' request stating no "standing" or "injury in fact." Elizabethton Star

3-19-04 Envio groups win, lose in BLEU project ruling. Administrative law judge for the U. S. NRC granted standing to only one of the three petitioners seeing public hearing about the BLEU project to be carried out at NFS site in Erwin. NRC Judge Alan S. Rosenthal granted standing to the State of Franklin Group of the Sierra Club, but shot down three similar requests made by another environmental group, 16 private citizens and a Carter County property owner, Elizabethton Star

4-21-04 NFS seeks better communications to workers. In a letter to NFS President Kerry Schutt, NRC's Region II administration recommended improving communication of facility safety information to workers, and management oversight for selected processes. NRC's License Program Review (LPR) from Jan. 20, 2003 - Jan. 23, 2004 states that incidents occurred during the evaluation period where certain safety controls were not fully understood by workers. Among those areas the review reported a detailed criticality safety analysis was not performed when changes to existing equipment and procedure changes were made in order to process licensed materials. NRC reported approximately 25 grams of sample material identified as uranium metal shavings ignited inside of a glass vial after being shaken by an operator while a sample was being extracted. Report noted NFS only focused on whether or not material was pyrophoric and had not utilized available industry experience and procedures on combustibility. Dan Rich, senior resident inspector at NFS said "This caused a lot of concern because if the quantity was larger it possibly could have produced a combustion event." Loren Plisco, NRC deputy regional administator for Region II added the "BLEU program's success lay in meeting NRC compliance." Elizabethton Star

5-10-04 Chase suspects held without bond. Federal agents investigating two Israeli men charged with eluding Tennessee authorities found only furniture in a warehouse storage unit in Madison County according to the Unicoi County Tennessee Sheriff who stated FBI agents searched the facility which the men reportedly rented, but found no evidence of anything suspicious. The men said they were on their way to W. VA to deliver furniture and were arrested Saturday after a chase. Both men were held without bond a authorities sought to verify their passports. One man is charged with reckless driving, evading arrest, littering and false

identification. The men rented the Ryder truck in Florida where they were living and working. FBI confirmed both men are in the U. S. legally with no criminal record. The Sheriff was waiting for word on the status of one of the men's passports Citizen Times

3-30-05 Judges uphold decision to allow NFS to convert uranium for TVA. "There is simply no basis in the record at hand for a determination on our part that the staff's environmental review failed to adequately consider the possibility of the occurrence of an accident with serious environmental consequences." Judge Alan S. Rosenthal and Richard F. Cole concluded and dismissed the petition filed by the Sierra Club. Linda Modica chairwoman of the local Sierra Club stated "when a new process proposes to increase plutonium discharges into the Nolichucky (River) by 5.8 million%, thorium discharges by 210,000%, and increased uranium by 16.6%, we believe the public's interest were best served if that hard look wa done by the regulators." The Sierra Club said **NFS's own documents show the BLEU proposal "poses significant environmental hazards that must be studied carefully and reported to the public in an environmental impact statement. Hazards include chemical spills, radioactive gas releases, explosions and uncontrolled chain reactions,** Johnson City Press