

From: Kevin Ramsey
To: Dave Lochbaum
Date: 01/07/2008 1:57:10 PM
Subject: Re: NFS-Erwin "opportunity"

Mr. Lochbaum:

I apologize for the late date of this response. It was difficult to coordinate over the holidays. The following is my understanding of your questions and our response:

Question: What is the point of requesting a hearing when the possession limit has already been approved?

Response: The opportunity to request a hearing allows you to challenge an action that you believe causes damage to you. If your request for a hearing is granted, you would have the opportunity to argue before the Presiding Officer or the licensing panel that the staff's action in granting the increase was in error. The Presiding Officer or licensing panel can issue orders to the licensee to take actions to modify its operations to address the damages you allege come from the amendment, or may even chose to reverse the staff and deny the amendment so that the licensee may not operate under the amendment in the future.

Question: Explain the statements concerning "lower than planned processing rates" and "no changes to process throughput."

Response: The statement regarding lower than planned processing rates concerns a backlog of feed material. The backlog was created when problems caused the licensee to operate its processes at less than full capacity while customers continued to ship feed material to the site. The feed material accumulated in storage areas while the licensee worked to return its processes to full capacity.

The statement regarding no changes to process throughput refers to the fact that the licensee is now operating at full capacity. The impact of these processes on the public and the environment has been assessed previously. The licensee intends to continue processing at this rate. Therefore, no increase is expected in the impact from these processes.

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>>> "Dave Lochbaum" <dlochbaum@ucsusa.org> 12/14/2007 1:09 PM >>>
Hello Mr. Ramsey:

I'm confused.

The Federal Register for Thursday, October 18, 2007, contains a notice about an opportunity to request a hearing involving a license amendment requested by Nuclear Fuel Services for their facility in Erwin, TN. The notice in the Federal Register states that the comment period runs through December 17, 2007. Additionally, the Federal Register notice states:

"The NRC hereby provides notice that this is a proceeding on an application for a license amendment

regarding a possession limit increase."

and

"An NRC administrative review, documented in a letter to Nuclear Fuel Services dated June 18, 2007, found the application acceptable to begin a technical review. If the NRC approves the amendment, the approval will be documented in an amendment to NRC License no. SNM-124. However, before approving the proposed amendment, the NRC will need to make the findings required by the Atomic Energy Act of 1954, as amended, and NRC's regulations."

I think I understand the notice as published in the Federal Register. What confuses me is the letter dated November 23, 2007, from the NRC (signed by Michael D. Tschiltz) to NFS approving the amendment request. It approves the amendment request the public has until December 17, 2007, to request a hearing about. What's the point? The amendment has been approved by the NRC.

If UCS mailed in a request for a hearing by December 17, 2007, would we achieve anything other than wasting a postage stamp? The NRC has already approved the amendment request in question, or formerly in question. Is this NRC public comment period therefore like an absentee ballot in a Soviet election?

I am further confused by the Safety Evaluation Report attached to the NRC's November 23, 2007, letter. In the first paragraph under the Discussion section, the NRC's SER stated:

"NFS' request to increase the possession limit is attributable to lower than planned processing rates..."

Okay.

Later down that very same page of the NRC's SER, the 4th bullet under the "NFS provided the following additional items to clarify the nature of the request" stated:

"There will be no changes in process throughput."

Okay.

Which of these directly and contradictory statements is truthful. Are the processing rates lower than planned or will there be no changes in process throughput?

Thanks,

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