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December 10, 1981

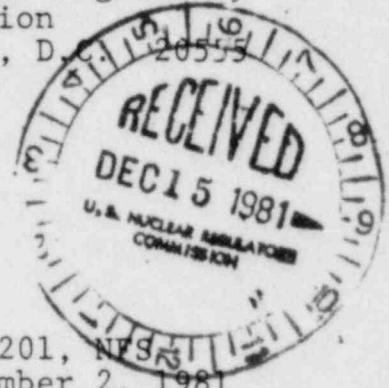
The Honorable Nunzio J. Palladino
Chairman
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

The Honorable John F. Ahearne
Commissioner
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

The Honorable Peter Bradford
Commissioner
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

The Honorable Thomas M. Roberts
Commissioner
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

The Honorable Victor Gilinsky
Commissioner
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555



Re: Docket No. 50-201, NFS
Letter of December 2, 1981

Dear Commissioners:

This is to advise you that the United States Court of Appeals for the Second Circuit, on December 8, 1981, reversed and remanded for trial the decision of the District Court for the Western District of New York which ordered Nuclear Fuel Services, Inc. to vacate the West Valley Center and to yield the same to the Department of Energy. (A copy of the decision is enclosed.) As a result of this decision, any court order mandating that NFS vacate the West Valley site is very unlikely, but in any event is not possible until the completion of a trial in District Court on the obligations and rights of NFS and the New York Authority under

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their agreements.

Although the referenced litigation is entirely separate from the NRC license issue, we believe the Court's decision is relevant in regard to NFS' request that NRC act promptly on its October 6, 1981 application for a license amendment which would enable NFS to transfer the West Valley site and facility to DOE.

Your order CLI-81-29 denying NFS' request for a stay of the license amendment (Change 31) issued on September 30, 1981, emphasized the need for prompt initiation of the West Valley Project for a number of reasons:

1. Congress' desire to initiate the West Valley Project as soon as possible;
2. The public interest in proceeding with that Project;
3. Concern about "[l]atent conditions which may potentially cause harm in the future"; and
4. Delay in the "resolution of the nation's nuclear waste program."

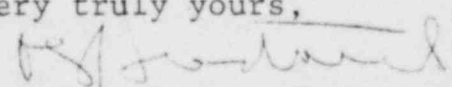
These very concerns are equally applicable to NFS' application to terminate its license. There is no justification for postponing a determination of this application until after completion of the pending litigation between NFS and the Authority. The Commission's refusal to act at this time serves only to permit a further delay of the Project.

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For reasons previously stated, NFS cannot consent to transfer of the West Valley facility and site to DOE under the terms of the license amendment (Change 31) issued September 30, 1981. The proposed amendment though would terminate NFS' authority and responsibility under the license on the date DOE assumes possession and control of the West Valley facility. This result would allow the Project to begin promptly, thus satisfying all of the concerns which the Commission cited in denying NFS' motion for a stay. At the same time it would have absolutely no adverse impact on public health, safety or interest or on the rights of either NFS or the Authority in their ongoing District Court litigation. As stated in our letter of December 2, 1981, NFS would fully cooperate in a prompt transfer to DOE if that amendment were issued.

In view of the Commission's position that the public interest and other concerns stated in Order CLI-81-29 justified making Change 31 without a prior hearing, we submit the Commission has even more reason to issue the amendment requested by NFS, effective immediately.

Very truly yours,


Orris S. Hiestand
Attorney for Nuclear Fuel
Services, Inc.

Of Counsel:

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DATE: December 10, 1981

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
12/10/81

In the Matter of
NUCLEAR FUEL SERVICES, INC.

'81 DEC 10 P4:59
Docket No. 50-201
Provisional Operating
License No. CSF-1

CERTIFICATE OF SERVICE

I hereby certify that the foregoing has been served as of this date by personal delivery or first class mail, postage prepaid, to the following:

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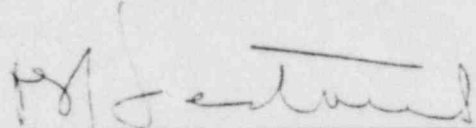
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(original and three copies)

Samuel J. Chilk
Secretary of the Commission
U.S. Nuclear Regulatory
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Orris S. Hiestand
Attorney for Nuclear Fuel
Services, Inc.

DATED: December 10, 1981