

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of

NUCLEAR FUEL SERVICES, INC.

(Application to Amend Special Nuclear
Materials License SNM-124)

Docket No. 70-143-LA

ORDER

Erwin Citizens Awareness Network, Inc. (ECAN) has requested a second extension of the deadline for filing hearing requests and petitions for leave to intervene in the matter of a Nuclear Fuel Services, Inc. license amendment application.¹ ECAN was previously granted a 30-day extension of the original June 27, 2022, filing deadline to July 27, 2022.² ECAN now requests an additional three-month extension to October 27, 2022.

The NRC Staff filed a response to ECAN's extension request.³ Therein, the Staff advised that it will issue a new notice of opportunity for hearing in the *Federal Register* to provide potential petitioners with procedures to gain access to relevant records that contain SUNSI.⁴ Potential petitioners, including ECAN, will have 60 days after publication of the new

¹ Letter to Acting Secretary Rochelle C. Bovol, NRC, from Linda Cataldo Modica, President, ECAN (July 26, 2022) (transmitted via email) (attached).

² Order of the Secretary (June 24, 2022) (unpublished) (ADAMS accession no. ML22178A101); see 87 Fed. Reg. 25,054, 25,054-55 (Apr. 27, 2022) (providing notice of opportunity to request a hearing and file petitions for leave to intervene regarding the license amendment application; this notice did not include instructions for how to request Sensitive Unclassified Non-Safeguards Information (SUNSI)).

³ *NRC Staff's Response to Extension Request* (July 27, 2022) (ML22208A279).

⁴ *Id.* at 1.

Federal Register Notice to submit a request for hearing and a petition for leave to intervene.

The Staff's action moots ECAN's request for an extension of time.

ECAN is reminded that documents filed in NRC adjudicatory proceedings must be filed in accordance with 10 C.F.R. § 2.302, including the NRC's electronic filing requirement in 10 C.F.R. § 2.302(a). Guidance on making electronic submissions may be found in the notice of opportunity for hearing and on the NRC Web site at <http://www.nrc.gov/site-help/e-submittals.html>. ECAN may seek assistance by e-mail to MSHD.Resource@nrc.gov, or by a toll-free phone call to 1-866-672-7640. If ECAN believes that it has good cause for not submitting documents electronically, it must file an exemption request in accordance 10 C.F.R. § 2.302(g).

This Order is issued pursuant to my authority in 10 C.F.R. § 2.346(b).

IT IS SO ORDERED.

For the Commission



Brooke P. Clark
Secretary of the Commission

Dated at Rockville, Maryland,
This 8th day of August 2022.

Linda Cataldo Modica, President
Erwin Citizens Awareness Network, Inc. (ECAN)
P.O. Box 1152
Jonesborough, TN 37659

26 July 2022

Rochelle C. Bavol
Acting Secretary of the Commission
United States Nuclear Regulatory Commission
Rockville, Maryland 20852

RE: Docket ID NRC-2022-0097

Dear Acting Secretary:

On behalf of Erwin Citizens Awareness Network, Inc. (ECAN), for the following reasons, I am requesting an extension to October 27th 2022 of the deadline to submit a request for a hearing or petition for leave to intervene in the matter of Nuclear Fuel Services' License Amendment Application, Docket ID NRC-2022-0097.

First, the ongoing COVID pandemic has continued to make it unsafe for leaders and members of ECAN to meet in person. From Washington & Unicoi Counties in Tennessee to Washington County, Virginia, the CDC has continued to find that our “community level is **High**” for COVID. (Emphasis original. See: <https://www.cdc.gov/coronavirus/2019-ncov/your-health/covid-by-county.html>) As forecast by most of us mindful of this public health crisis, the highly-contagious omicron subvariants have reached Southern Appalachia causing high rates of disease transmission and hospitalizations.

Second, because many of ECAN’s members are at high risk of severe illness, when the CDC ranked (and continues to rank) our community as having a **High** rate of transmission, we took seriously the CDC warning that [“Additional precautions may be needed for people at high risk for severe illness”](#). CDC recommendations include: a) avoiding “non-essential indoor activities”, b) maintaining improved ventilation throughout indoor spaces and c) following CDC recommendations for isolation and quarantine.

- Like most community groups, Erwin Citizens Awareness Network, Inc. has no office. Our leaders and members do our advocacy work from home. Therefore, if we were to meet indoors – where our computers are and where our records and documents are kept – we would be meeting at one of our houses;
- In order to adhere to CDC guidelines, non-essential indoor activities – with “non-essential activities” being defined together with our families who are equally concerned for our health -- were eliminated by those of us who are at high risk;
- With indoor activities constrained by COVID, we have been unable to meet in person at any of our home offices which may not have the “improved ventilation” necessary to eliminate exposure;
- I have had to self-quarantine this past week because of coronavirus symptoms that included fever and am only today able to spend some time at my desk;
- While PAXLOVID is available in our area, my healthcare provider informed me that some pharmacies have no supplies, but that they would help patients find the medication.

Therefore, just as on June 10th when ECAN requested that the deadline be extended to October 27th 2022, the COVID pandemic has continued to make it unsafe for the leaders and members of ECAN to meet in person to prepare a hearing request.

Third, while the federal government’s nationwide status might be [“open with maximum telework flexibilities”](#), as was indicated on June 10th, teleconferencing is not accessible to many ECAN members. Therefore, we have not been able to consult them on the current matter through virtual meetings.

Fourth, for the following reasons, ECAN has very serious concerns about the dumping of a 13.36 Mb document – NFS’s Response to NRC Request for Additional Information (RAI) to Support Environmental Review (ML22193A034) -- so soon before a hearing-request deadline:

- According to ML22111A281, NFS’s response to the RAI was due on May 28th, but NRC seems to have granted an extra month for the licensee to comply;
- Even though NFS’s response was already so late, the voluminous document was not added to ADAMS until 07/12/2022 @ 04:29 PM EDT;
- Documents essential to this case that are cited in ML22193A034 are nowhere to be found in ADAMS. Where’s the “Supplemental Environmental Report” referred to on pages 13 &.28? Where’s the “Environmental Report in the application” that’s referred to on page 32?
- Is it a new NRC policy to allow the licensee to decide whether it’s “estimated”, “minimal”, “nominal”, “minor”, “planned”, “anticipated” new actions are in compliance with NEPA and “will have no significant impact”? (p.40). Please have staff advise.

Fifth, ECAN expects the same consideration during the pandemic that the NRC has granted other stakeholders. According to “[NRC COVID-19 Update](#)”, the NRC has been “Extending [public comment deadlines](#), depending on the circumstances of each activity, specific impacts of the pandemic, and the activity’s significance to the NRC’s mission”. Since ECAN has already informed the NRC that COVID constraints were hampering members’ ability to collaborate, since the NRC knows or should know that members of our community have long been engaged in NRC licensing actions that affect our health and safety, failure to grant a reasonable extension of time to submit a hearing request would (if I remember correctly what a Division Chief once told me) be a violation of a long-standing handbook rule that prohibits the arbitrary dismissal of an informed public’s well-articulated concerns.

Sixth, ECAN has been deprived important information on the proposed process by the useful designation of some documents as “proprietary”. By the way, this approach was used on our community during the BLEU Hearing when, all of a sudden, documents were designated “Official Use Only”. So, as the saying goes, we’re once burned & twice shy. This time, we expect our government to act in good faith. Specifically, we require the release to the public of redacted versions of all so-called “proprietary” and “security-related” documents relevant to this case, including but not limited to ML22066B004, significant enforcement actions such as Confirmatory Orders, the Environmental Report and Supplemental Environmental Report referenced in ML22193A034 (and ample opportunity to study them), as well as TDEC’s response to the licensee’s request for “insignificant emission source designation” (p.16), without which NRC would be expecting the public to head blindfolded into a hearing.

Therefore, ECAN again makes the well-considered request that the deadline be extended to October 27, 2022 by which time public health experts expect the current COVID wave to have subsided. Thank you, in advance, for your serious attention to the public’s concerns.

Respectfully submitted for Erwin Citizens Awareness Network, Inc.,

Linda Cataldo Modica.

Linda Cataldo Modica, ECAN President

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **ORDER (Regarding ECAN's 2nd Request for Extension of Hearing Request Deadline)** have been served upon the following persons by Electronic Information Exchange and by electronic mail as indicated by an asterisk.

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Nuclear Fuel Services 70-143-LA

ORDER (Regarding ECAN's 2nd Request for Extension of Hearing Request Deadline)

Dated at Rockville, Maryland,
this 8th day of April 2022.

Office of the Secretary of the Commission