

September 28, 2022

To: Hon. E. Roy Hawken
Chief Administrative Judge
Atomic Safety and Licensing Board

Re: Denial of Access to Sensitive Unclassified Non-Safeguards Information

Attached please find the response of the Nuclear Regulatory Commission denying my request for access to Sensitive Unclassified Non-Safeguards Information (“SUNSI”) in connection with the license amendment application of Nuclear Fuel Services, Inc., as announced at 87 Fed. Reg. 53507 (Aug. 31, 2022). NRC’s response includes my request. This letter is a challenge to the denial of my request in accordance with the instructions in the denial letter.

Let me first address the question of standing to participate in the proceeding, since that was called into question in the denial letter, although it was not a ground for the denial. I grew up and live in an area not very far from the Nuclear Fuel Services facility. There are many people who have lived here all their lives. We have had independent expert studies done that have been submitted to NRC showing the impact of NFS on the environment in our area, but they have been largely ignored by NRC. We have spent much money and time and effort trying to protect ourselves from the hazards of this enterprise. I have communicated often with NRC and the agency is well aware of the impact of NFS on the environment and the people here. It is absurd to even question whether we have standing to address NFS’s license amendment application. We were here long before NFS came and we will be here, suffering the consequences, long after NFS leaves.

Now about the objection to my need for access to SUNSI. Here is the language from the denial letter:

The NRC policy regarding access to SUNSI balances the goal of providing meaningful access to NRC proceedings with the security, privacy, and commercial interests for limiting access to certain information. Accordingly, a criterion for receiving access to SUNSI is that the requester has demonstrated a “need” for the requested SUNSI with respect to the ability to meaningfully participate in the adjudicatory proceeding. The Commission’s guidance on evaluating this “need” is, more specifically, that a “request for SUNSI should include: (1) an explanation of the importance of the requested information to the proceeding, i.e., how the information relates to the license application or to NRC requirements or guidance, and how it will assist the requester in seeking intervention; and (2) an explanation of why existing publicly available versions of the application would not be sufficient.” (Footnotes omitted.)

NRC’s reasoning is circular. The Federal Register announcement shows that four of the five SUNSI documents were submitted by NFS as attachments to its application. They have not been rejected or excluded by NRC. The fifth SUNSI document was supplied to NRC at NRC’s

request. By definition, therefore, these documents relate to the license application or to NRC requirements or guidance. In response to the criterion that I must show “how it will assist the requester in seeking intervention,” I can only pose the question: How can I possibly demonstrate that without seeing the documents themselves? As to the remaining requirement, to explain why existing publicly available versions of the application would not be sufficient, I again note that apparently the publicly available versions are not regarded by NFS or NRC as being sufficient for their purposes; therefore, the publicly available versions could not be sufficient for me to be able to participate meaningfully in this proceeding. In summary, NRC wants to keep me in the dark about basic information that NRC itself is considering.

Let me just offer a brief comment about why we in our area have been disadvantaged over the years in dealing with NRC and NFS.

In our area, Nuclear Fuel Services is known to be a bad actor in its past activities. NRC has failed to protect public health and safety by allowing NFS free rein to do whatever it wants and by ignoring scientific data submitted by the public here that showed the impact of NFS’s actions and why NFS should not have been allowed to operate here in the first place. We once had faith in NRC’s ability and willingness to protect us. But we have come to believe that NRC regards us as disposable, and treats NFS’s impact on us as mere “collateral damage” not to be taken seriously.

Sincerely,

Ms. Park Overall

Enclosure