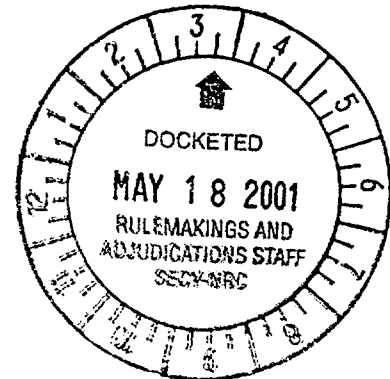


UNITED STATES OF AMERICA
BEFORE THE NUCLEAR REGULATORY COMMISSION

Ex Parte:
Environmentalists, Inc.,

Petitioners,

In the matter of
Duke-COGENA-Stone & Webster (DCS)
Construction Authorization Request (CAR)
Mixed-Oxide (MOX) Fuel Fabrication Facility
Savannah River Site, South Carolina
Applicants.



REQUEST FOR HEARING
And
PETITION TO INTERVENE

Environmentalists, Inc. (Petitioner) files this REQUEST FOR A HEARING and PETITION TO INTERVENE on the above-referenced matter in response to the Federal Register Notice of April 18, 2001 (pages 11994-19996) and in accordance with 10CFR Section 2.1205, section 2.714 and part 2 subpart L in support thereof states that:

1. Environmentalists, Inc. is a non-profit corporation of over 40 members organized under and by virtue of the laws of the State of South Carolina and having a principal place of operation at 1339 Sinkler Road, Columbia, South Carolina 29206. Environmentalists, Inc. is dedicated to protecting the health, safety and welfare of South Carolina citizens, preserving the beautiful and natural environment of the State and preventing pollution of the environment by harmful contaminants, including radioactivity. Due to its present lack of funding, members who do volunteer work for the organization did the preparation of this filing. None of them are lawyers.

2. The membership of the Petitioner is comprised primarily of individuals who are citizens and residents of South Carolina, a majority of who live or own property in geographic areas which may be adversely affected by plutonium recovery operations, the proposed mixed-oxide fuel fabrication facility, the use of such fuel in two of Duke Power's nuclear reactors and other related activities, such as transportation of radioactive materials and radioactive waste management. The petitioner and its members believe that approval of the Construction Authorization Request (CAR) and the proposed construction and operation of the MOX facility will create conditions detrimental to their interests, in term of their health, safety and economic well being.
3. Environmentalists, Inc. has numerous reasons for requesting this hearing and petitioning to intervene with the opportunity of and participating as a full party to such a proceeding, including:
 1. Because the organization and its members may not otherwise have their interests adequately represented.
 2. Because the outcomes resulting from approval of the Construction Authorization Request (CAR) include the possibility that people's lives and their natural environment will be damaged from a nuclear accident at the MOX plant, at either of the Duke Power nuclear reactors using MOX fuel or from accidents during transport or other related activities.
 3. Because of the inadequacies of the Applicant's Environmental Report, some of which are identified in the contentions below.
 4. Because of the possible detrimental impact on the economic well being of farmers, those owning businesses and the possible damaging effects on all members and non-members who happen to be in the pathway of radioactive fallout.
 5. Because all members of Environmentalists, Inc. are at risk, not just those who live in the vicinity of the proposed MOX facility or the two Duke Power facilities due to the possible spread of radioactive contaminants by a number of different means and because the life threatening capacity of the materials involved lasts for long periods of time. Not just members are at risk from the results of a favorable decision for the Applicants, others who are similarly located could be harmed in terms of economic losses and endangerment of their health and safety.

6. Because the uncertainties surrounding the transportation of plutonium and other nuclear materials means that it isn't possible to predict with accuracy which members or non-members are most likely to be harmed, what property is most apt to be contaminated nor the extent, of damage associated with incidents that may happen. The threat from terrorist activities makes it even harder to maintain as close as possible to perfect containment when plutonium is involved.
 7. Because adverse effects are long term when plutonium and other long lived radionuclides are concerned; future generations are also stakeholders who need to be represented by the Petitioner and other public-interest groups.
4. The Petitioner has members owning property or living and working or taking part in recreational activities within areas which may be adversely affected by construction and operation of the proposed MOX facility and the nuclear reactors for which MOX use is planned or by transportation and collection of high-level radioactive wastes within the State. Releases of radioactive materials into the atmosphere, waters or other environs of said areas during normal operations or by reason of accidents at plants or during transport or storage would adversely affect or endanger the following interests and rights of the Petitioner's members:
1. Their use of and interest in using private property which is in close proximity to the MOX facility, the two Duke plants proposed for the first use of MOX fuel in this country and /or highways over which nuclear shipments travel
 2. Their interest in using the Savannah River and other waterways and bodies of water which could be contaminated by such radioactive releases.
 3. Their interest in and right to travel on public highways to visit family and friends, to enjoy parks and other public areas of the State which could be contaminated by such radioactive releases.
 4. Their use of and right to use, within the borders of South Carolina, air and drinking water free from man-made radioactive contaminates.
 5. Their interest and right to live and own property in geographic areas which could be contaminated by such radioactive releases
 6. The livelihood derived from their jobs which could be impaired by such radioactive releases or by such contemplated activities,

particularly the transportation and accumulation of large quantities of high-level wastes in the State.

7. Their interest in eating fresh foods grown in local areas and not having them contaminated with releases of radioactive discharges or accidental leaks.
 8. Their production and right to produce milk and other food and agricultural produce within an area which could be contaminated by such radioactive releases.
 9. Their interest and right to receive income derived from selling and serving food, from tourism and other businesses which could be impaired by activities related to MOX fuel.
 10. Their interest in and right to know which highways and roads are safest for travel in terms of protecting themselves and their families from the dangers of being close to trucks carrying Mixed-oxide fuel and the risk of being in a traffic accident which involves a shipment of MOX fuel or other radioactive materials related to the reclaiming of plutonium from nuclear bombs and its use at Duke Power's Catawba and Maguire nuclear reactors.
 11. Since plutonium is attractive to terrorists for use in bombs, tight security would be required, thus infringing on privacy rights, including those of members.
5. The following information regarding six of Environmentalists, Inc.'s members is offered in support of this Petition. The Petitioners would show:
1. William Gregg Jocoy and Nancy Lynn Jocoy own property and reside at 1232 Plum Branch Lane, Fort Mill, SC, approximately ten miles from Duke Power's Catawba nuclear facility. They breathe the air, drink water and travel over roads that would be used to transport Mixed-Oxide fuel to the Maguire and Catawba nuclear facilities. They are informed and believe that their interests may be harmed by the result of a favorable decision to allow the construction of a Mixed-oxide Fuel Fabrication Facility at Savannah River Site.
 2. Marian Miner works and owns a business, which is located in Rock Hill, SC, approximately ten miles from Duke Power's Catawba nuclear facility. Ms. Miner spends much of her time

working at her store where she breathes the air, eats food and drinks water. Ms. Miner is informed and believes that her business interests as well as her and her employees health and the health of those who shop at her store may be adversely affected by a favorable decision to allow the construction of a Mixed-oxide Fuel Fabrication Facility at Savannah River Site.

3. Mr. J. S. McMillan owns property and resides in Allendale, SC. His property is approximately 20 miles from the Savannah River Site. On his 600 acres, Mr. Macmillan grows crops for a living. He eats the food from his farm, drinks water, breathes the air and travels over roads that would be used to transport Mixed-Oxide Fuel shipments from Savannah River Site to the Catawba and Maguire Duke Power nuclear facilities. Mr. Macmillan is informed and believes that his business interests as well as his health and the health of those who eat his produce may be adversely affected by a favorable decision to allow the construction of a Mixed-Oxide Fuel Fabrication Facility at Savannah River Site.
4. Edward A. Giusto owns property and resides at 651 Bohler Avenue, Augusta, GA., approximately 20 miles from the Savannah River Site. He drinks the water, breathes the air and travels over roads that would be used to transport Mixed-Oxide Fuel from the Savannah River Site to the Catawba and Maguire Nuclear Reactors. Mr. Giusto is informed and believes that his interests may be harmed a favorable decision to allow the construction of a Mixed-Oxide Fuel Fabrication Facility at the Savannah River Site.
5. Jess Riley owns property and lives at 854 Henley Place, Charlotte, NC approximately 15 miles from the Catawba Nuclear reactors and approximately 20 miles from the Maguire Nuclear reactors. He drinks the water, breathes the air and travels over roads that would be used to transport Mixed-Oxide Fuel from the Savannah River Site to the Catawba and Maguire Nuclear Reactors. Mr. Riley is informed and believes that his interests may be harmed by a favorable decision to allow the

construction of a Mixed-Oxide Fuel Fabrication Facility at the Savannah River Site.

6. The Petitioner is a responsible public-interest organization concerned with the construction and operation of nuclear facilities in such a way as to eliminate uncalled for risks to the health, welfare and safety of the public and to the environment as a whole, and to ensure that the provisions of the National Environmental Policy Act (NEPA), the Atomic Energy Act (AEA) and other federal and state legislation for the preservation of environmental qualities and the protection of people from the damaging effects of radiation are enforced. The NEPA provisions were upheld and clarified in terms of the Federal Government's responsibility regarding protection of the environment in the Calvert Cliff decision of July 23, 1971. On page 5 of this decision before United States Court of Appeals for the District of Columbia Circuit the following statement is made regarding the mandate that federal agencies and departments have in preserving and protecting environmental qualities;

"Congress authorizes and directs that, to the fullest extent possible: the policies, regulations and public laws of the United States shall be interpreted and administered in accordance with the policies set forth in this Act." (from section 102 of NEPA)

7. The Petitioner calls attention to the fact that the Calvert Cliff decision on page 13 states that;

"At each stage, the Commission's regulatory staff must take the applicants' report and prepare its own "detailed statement" of environmental costs, benefits and alternatives. This statement will then be circulated to other interested and responsible agencies and made available to the public. After comments are received from those sources, the staff must prepare a final "detailed statement" and make a final recommendation on the application for a construction or operating license."

In the event, the NRC skips this step in its licensing plans; the agency would be failing to comply with the intent and the provisions of NEPA.

8. The Applicants' reports do not include adequate evidence to support their Construction Authorization Request (CAR). The following contentions call attention to some of the deficiencies in the Applicants' reports:
- A. There is a lack of information regarding operations similar to those planned by the Applicants. For example, the Nuclear Fuel Services plant in West Valley, New York is not discussed and yet this facility reclaimed uranium and plutonium from spent nuclear fuel for use in Mixed-oxide fuel. Evidence related to many of the areas of concern being faced by the Applicants is available from a number of sources, including the transcript of the NRC licensing proceedings held between 1973 and 1976, NRC Docket No. 50-332. The Applicants chose instead references which depended heavily on predictions and estimates rather than real operating experience.
 - B. The Applicants failed to make use of the evidence contained in the transcripts of the Barnwell Nuclear Fuel Plant, a uranium and plutonium recovery facility planned by Allied General Nuclear Services (AGNS). Since the licensing of the AGNS's facilities was challenged under the provisions of NEPA by public interest organizations, including Environmentalists, Inc., an extensive record of evidence exists regarding a majority of the same issues now being considered in relation to the Applicants' request for a construction license. (Docket 50-332) These transcripts are available from the NRC. The issues taken up include transportation, radioactive waste management, health and safety issues, concern regarding containment, particularly in regard to plutonium, etc.
 - C. The Applicants don't use evidence from the transcripts of licensing proceedings related to the two Duke nuclear plants, which have been proposed for MOX fuel use. There is no explanation in the Applicants' reports of why evidence from such reliable sources is missing from their consideration. A majority of the 147-reference list is reports from the NRC, DOE or ones that were done under contract for the government, usually the Department of Energy. The realities associated with

using the world's most powerful explosive, a substance which remains deadly for long periods of time, in an experimental project, tend to get lost in documents prepared by corporations and agencies proposing facilities and activities.

- D. Another defect of the Applicants reports is the omission of the scientific findings of the National Academy of Sciences Committee on Geologic Aspects of Radioactive Waste Disposal of 1966, as well as reviews of the 1970's by geologists with the U.S. Geological Survey of the U.S. Department of the Interior. Both groups of scientists warned of problems at the location of the Savannah River Site and the proposed AGNS facilities primarily in regard to causing pollution of water sources. Without consideration of these findings, it is not possible to estimate the economic losses which could result from approval being given to the Applicants' CAR.
 - E. The Applicants, in their reports, have failed to look at the possible outcomes of their facility from the viewpoint of business owners in the State, whether in manufacturing, real estate, sales or service companies. Some may be close to the proposed facilities, others along routes over which radioactive shipments travel. The Applicants have not adequately addressed other financial issues and questions.
 - F. The Environmental Report of the Applicants has a 4-page section on Transportation. Only one reference is identified which is the DOE Environmental Impact Statement related to Surplus Plutonium Disposition. This practice of using the reports of the agency promoting a nuclear project has been going on for years. In this case, the Applicants are limiting the information used to what the DOE has to use as the basis of its decisions. Since the DOE's EIS on SPD is defective because of depending heavily on its own reports and those done by Westinghouse and others under contract to DOE, the Applicants' report is also defective.
8. These contentions relate to the need for decisions on this matter of the CAR to meet the requirements of the NEPA as well as being in keeping with the laws intent. The Atomic energy act (AEA) and other

laws and regulations related to limiting people's exposure to radiation also apply to the Petitioner's contentions. The Petitioner reserves the right to amend this document, particularly in regard to adding contentions. Attention needs to be called to other examples of deficiencies, omissions, use of misleading information, lack of adequate documentation, failures to resolve conflicting information, etc.

The Petitioner requests that its Petition to Intervene be approved and that Environmentalists, Inc. be made a full party to a NRC proceeding on this matter. The organization is well qualified to take part in the considerations before the agency in regard to the Applicants Construction Authorization Request, having been involved in activities related to nuclear research since 1972.

Respectfully submitted,

A handwritten signature in black ink, reading "Ruth Thomas". The signature is fluid and cursive, with the first name "Ruth" and last name "Thomas" clearly distinguishable.

Ruth Thomas, President
Environmentalists, Inc.
1339 Sinkler Road
Columbia, SC 29206

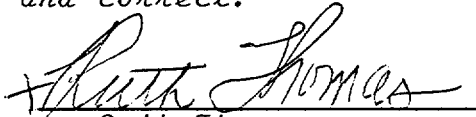
803-376-1500

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

V E R I F C A T I O N

Before me personally appeared Ruth Thomas, who being duly sworn, says that she is president of Environmentalists, Inc., the Petitioner in the above-referenced matter, that in her said capacity she has knowledge of the facts and matters herein concerned; that she co-ordinated the preparation of the foregoing Request for Hearing and Petition to Intervene; and that to the best of her knowledge and belief the matters stated herein are true and correct.


Ruth Thomas

SWORN TO before me this 18th
day of May, 2001.


Notary Public for South Carolina
My Commission Expires: My Commission Expires May 5, 2004

CERTIFICATE OF Service

The undersigned hereby certifies that the foregoing Request for Hearing and Petition to Intervene and the Verification were served this 18~~th~~ day of May, 2001, by first class mail, postage prepaid, upon the following persons pursuant to the Federal Register Notice of April 18, 2001:

Secretary, U. S. Nuclear Regulatory Commission
Washington, D. C. 20555-0001

Attention:
Rulemakings and adjudications Staff

Office of the General Counsel
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555-0001

Donald J. Silverman, Esq.
Morgan, Lewis & Bockius
1800 M Street N.W.
Washington, D. C. 20036-5869

A handwritten signature in cursive script that reads "Ruth Thomas". The signature is written in dark ink and is positioned above a horizontal line.