

Alan S. Rosenthal, Presiding Officer
Administrative Judge
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Mail Stop: T-3F23
Washington, D.C. 20555

Richard F. Cole, Special Assistant
Administrative Judge
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In the Matter of
NUCLEAR FUEL SERVICES, INC.
(Material License Amendment)
Docket No. 70-143-MLA

Dear Administrative Judges:

Pursuant to 10 C.F.R. § 2.1213, the Nuclear Regulatory Commission (NRC) Staff is required to notify the Presiding Officer within 10 days of the designation of the Presiding Officer whether the Staff intends to participate as a party to the adjudication. The Presiding Officer was designated on September 3, 2002. Initially, five separate hearing requests were filed by: 1) Blue Ridge Environmental Defense League (BREDL);¹ 2) Oak Ridge Environmental Peace Alliance (OREPA), Tennessee Environmental Council (TEC), State of Franklin Group of the Sierra Club (Sierra Club), and Friends of the Nolichucky River Valley (FONRV);² 3) David Wallack;³ 4) Trudy L. Wallack;⁴ and 5) Julia Beach, David Byrd, Tamara Davis Chapman, William Cooper, Brandon Davis, Julia B. Evans, Denne D. Evans, Toni L. Foreman, Linnea Gilmer, JoAnna Hammonds, Whitney Johnson, Gerald M O'Connor, Jr., James Smith, Drew

¹ The Request of Blue Ridge Environmental Defense League for a Hearing on a License Amendment for Nuclear Fuel Services (August 8, 2002).

² Oak Ridge Environmental Peace Alliance (OREPA), Tennessee Environmental Council (TEC), State of Franklin Group of the Sierra Club (Sierra Club), and Friends of the Nolichucky River Valley (FONRV) filed a single hearing request on behalf of all the organizations. Request for Hearing by Oak Ridge Environmental Peace Alliance, Tennessee Environmental Council, The State of Franklin Group/Sierra Club, Friends of the Nolichucky River Valley (August 8, 2002).

³ Letter from David Wallack, to NRC (August 6, 2002).

⁴ Letter from Trudy L. Wallack, to NRC, (August 7, 2002).

Walsh, and Peter Zars,⁵ concerning the amendment requested by Nuclear Fuel Services (NFS) seeking authorization for construction and operation of the Uranyl Nitrate Storage Building at the NFS site in Erwin, Tennessee.

On September 13, 2002, the Staff submitted a letter in which it informed the Presiding Officer that it did not intend to participate as a party to an adjudication on the NFS license amendment. However, the Presiding Officer issued a September 11, 2002 Memorandum and Order requesting further information regarding the Federal Register Notice on the license amendment application published on July 9, 2002. The Staff filed its response to this Order on September 19, 2002, in which the Staff acknowledged that the notice of opportunity for hearing contained in the July 9, 2002 Federal Register Notice was in error and that a corrected notice would be issued. This revised notice was published in the Federal Register on October 30, 2002. On October 31, 2002, the Presiding Officer informed the hearing requesters that they had the option to file new or supplemental hearing requests by November 29, 2002. In response to that order, FONRV, the Sierra Club, OREPA, and TEC filed a joint request for hearing on November 27, 2002.⁶ BREDL also filed a request for hearing on November 29, 2002.⁷ Kathy Helms-Hughes filed a hearing request via electronic mail on November 29, 2002.⁸

Pursuant to 10 C.F.R. § 2.1213, the Staff hereby reiterates its September 13, 2002 notice that it does not plan to participate as a party in the adjudicatory proceeding on the February 28, 2002 license amendment.

Additionally, the Staff notes that the FONRV, the Sierra Club, OREPA, and TEC filed a request to hold this proceeding in abeyance pending the submission of future related license amendment applications by NFS. These hearing requesters have argued that it would be unfair and wasteful of resources to continue with this proceeding and that the Presiding Officer should exercise his discretion to postpone this proceeding until all related license amendment applications have been filed. Although the Staff does not plan to participate as a party, the

⁵ These individuals collectively submitted requests for hearing through the same attorney. Letter from C. Todd Chapman, Esq., to NRC (August 8, 2002).

⁶ Request for Hearing by Friends of the Nolichucky River Valley, State of Franklin Group of the Sierra Club, Oak Ridge Environmental Peace Alliance, and Tennessee Environmental Council. (November 27, 2002).

⁷ The Substitute Request of The Blue Ridge Environmental Defense League for a Hearing on a License Amendment for Nuclear Fuel Services (November 29, 2002).

⁸ Declaration of Kathy Helms-Hughes (November 29, 2002).

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December 6, 2002

Staff agrees with the hearing requesters that it would be more expeditious to postpone this proceeding until all three related license amendment applications have been received and noticed.⁹ Therefore, the Staff does not object to the request to hold this proceeding in abeyance.

Sincerely,

/RA/

Jennifer Euchner
Counsel for NRC Staff

cc: C. Todd Chapman, Esq.
Daryl M. Shapiro
Sean Barnett
Office of the Secretary

Louis Zeller
Neil J. Newman
Diane Curran, Esq.
Atomic Safety and Licensing Board Panel

⁹ The second license amendment application was submitted to the NRC by NFS by letter dated October 11, 2002. The Staff is currently processing this application. A notice for opportunity for hearing on this license amendment application will be published in the Federal Register shortly. The publicly available portions of this license amendment application are available through the ADAMS computer system at <http://www.nrc.gov/reading-rm/adams.html> using the following accession numbers:

October 11, 2002 License Amendment Request and Non-Proprietary Information (ADAMS accession numbers ML022960038, ML022960069, and ML022960084).

October 14, 2002 ISA Summary for BLEU Preparation Facility Processes (ADAMS accession numbers ML023080301, ML023090025, and ML023090170).