

RAS 5116

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

December 19, 2002
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December 20, 2002 (2:38PM)

Before the Presiding Officer

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

In the Matter of)	
)	Docket No. 70-143
NUCLEAR FUEL SERVICES, INC.)	Special Nuclear Material
)	License No. SNM-124
(Special Nuclear Material License))	

APPLICANT'S SUPPLEMENT TO APPLICANT'S ANSWERS TO PETITIONERS'
REQUESTS FOR HEARING

On August 23, 2002 and December 13, 2002, Applicant Nuclear Fuel Services, Inc. ("Applicant" or "NFS") filed answers to the petitions that had requested a hearing in this proceeding.¹ Applicant respectfully requests permission to file a supplement to its answers and files this supplement to bring to the attention of the Presiding Officer a Commission decision yesterday that is dispositive of at least one potential area of concern raised by the petitioners in their hearing requests.

In Private Fuel Storage, L.L.C. (Independent Spent Fuel Storage Installation), CLI-02-25, 56 NRC __ (Dec. 18, 2002), the Commission ruled that "NEPA [the National Environmental Policy Act] does not require a terrorism review." Id., slip op. at 2. The Commission's decision ruled on contentions in several cases² raising the question of "whether NEPA requires the NRC,

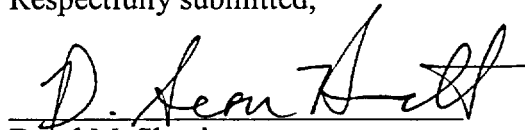
¹ Applicant's Answer To Request For Hearing Of The Friends Of The Nolchucky River Valley, The State Of Franklin Group Of The Sierra Club, The Oak Ridge Environmental Peace Alliance, and The Tennessee Environmental Council (Dec. 13, 2002); Applicant's Answer To Request For Hearing and Areas Of Concern Of The Blue Ridge Environmental Defense League (Dec. 13, 2002); Applicant's Answer To Declaration Of Kathy Helms-Hughes (Dec. 13, 2002); Applicant's Answer to Requests for Hearing of 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 Walsh, and Peter H. Zars (Aug. 23, 2002).

² The Commission reached the same conclusion in three other decisions handed down yesterday. Duke Cogema Stone & Webster (Savannah River Mixed Oxide Fuel Fabrication Facility), CLI-02-24, 56 NRC __ (Dec. 18, 2002); Duke Power Corp. (McGuire Nuclear Station, Units 1 & 2; Catawba Nuclear Station, Units 1 & 2), CLI-02-26, 56

in rendering licensing decisions, to consider the impacts of terrorism.” Id. The Commission discussed the four grounds on which it based its decision: 1) NEPA's "rule of reason" excludes consideration of impacts far removed from the proposed agency action; 2) the risk (and particularly the probability) of a terrorist attack cannot be adequately determined; 3) NEPA does not require worst case analyses; and 4) NEPA's public process is not a forum for sensitive security issues. Id. at 14, 16, 18, 22.

At least one petitioner in this proceeding sought to raise the potential effects of terrorist attacks as an area of concern regarding the environmental analysis of the NFS license amendment application.³ NFS submits that the Commission's Private Fuel Storage decision renders that and any similar concerns not cognizable under NEPA.

Respectfully submitted,



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NRC __ (Dec. 18, 2002); Dominion Nuclear Connecticut, Inc. (Millstone Nuclear Power Station, Unit 3), CLI-02-27, 56 NRC __ (Dec. 18, 2002)

³ See Request For Hearing Of The Friends Of The Nolichucky River Valley, The State Of Franklin Group Of The Sierra Club, The Oak Ridge Environmental Peace Alliance, and The Tennessee Environmental Council (Nov 27, 2002) at 11, 13.

CERTIFICATE OF SERVICE

I hereby certify that copies of Applicant's Supplement to Applicant's Answers to Petitioners' Requests for Hearing were served on the persons listed below by electronic mail or by facsimile and deposit in the U.S. mail, first class, postage prepaid, this 19th day of December, 2002.

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