

February 5, 2004

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

DOCKETED  
USNRC

Before the Presiding Officer

February 9, 2004 (10:35AM)

In the Matter of )  
 )  
Nuclear Fuel Services, Inc. )  
 )  
(Blended Low Enriched Uranium Project) )

Docket No. 70-143  
Special Nuclear Material  
License No. SNM-124

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

**APPLICANT'S OPPOSITION TO SIERRA CLUB ET AL.'S APPLICATION FOR  
STAY OF NRC STAFF DECISION TO ISSUE SECOND LICENSE AMEND-  
MENT FOR NFS BLEU PROJECT**

Pursuant to 10 C.F.R. § 2.788(d), Applicant Nuclear Fuel Services, Inc. ("NFS") hereby opposes the request of the Sierra Club et al. ("Petitioners")<sup>1</sup> to stay the NRC Staff's issuance of Amendment 47 to NFS's license for its Erwin, Tennessee facility. The amendment is the second license amendment of three for which NFS has applied regarding the Blended Low-Enriched Uranium ("BLEU") Project, which is part of a Department of Energy ("DOE") non-proliferation program to reduce stockpiles of surplus high-enriched uranium ("HEU") by down-blending it to low-enriched uranium. NFS respectfully submits that the Presiding Officer should deny the request because Petitioners: (1) lack standing,<sup>2</sup> and (2) fail to satisfy any of the factors required to support the extraordinary relief of a stay pending the outcome of a hearing.

**I. BACKGROUND**

On October 11, 2002, NFS requested the second of three license amendments to Special Nuclear Material License No. SNM-124 in support of the BLEU Project, to au-

<sup>1</sup> "Sierra Club et al.'s Application for Stay of NRC Staff Decision to Issue Second License Amendment for NFS BLEU Project" (Jan. 26, 2004) ("Stay Req.").

<sup>2</sup> NFS acknowledges the Presiding Officer's discussion of standing contained in the January 27, 2004 Order granting Petitioners leave to file their stay request out of time. NFS will address standing briefly in order to preserve its argument.

thorize the conversion of HEU materials to high-enriched uranyl nitrate solution and the downblending of the solution to low-enriched uranyl nitrate solution in the proposed BLEU Preparation Facility.<sup>3</sup>

In June 2002, based on environmental information that NFS had submitted, the NRC Staff published the Environmental Assessment and issued a Finding of No Significant Impact (“FONSI”) for NFS’s first license amendment.<sup>4</sup> Along with assessing the impacts of the first amendment, the 1<sup>st</sup> EA also assessed the impacts of the second and third amendments—i.e., the entire BLEU Project—for the purpose of assessing connected actions and cumulative effects and concluded that those amendments also would not result in significant adverse impacts to the environment. 1<sup>st</sup> EA at 5-1. The 1<sup>st</sup> EA specifically assessed all the activities to be conducted for the BLEU Project and drew specific conclusions regarding each of the activities’ environmental impacts. *Id.* § 5.

In September 2003, the Staff published the 2<sup>nd</sup> EA and issued a FONSI for the second license amendment.<sup>5</sup> The 2<sup>nd</sup> EA “presents up to date information and analysis for determining whether to issue a [FONSI] or to prepare an Environmental Impact Statement (EIS).” 2<sup>nd</sup> EA at 2. It concluded, as a final matter, that the second license amendment would not result in any significant impacts to the environment. *Id.* at 5.

On November 27, 2002, Petitioners requested that the Presiding Officer hold this proceeding in abeyance pending NFS’s submission of all three license amendment appli-

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<sup>3</sup> Nuclear Fuel Services, Inc., Notice of Receipt of Amendment Request and Opportunity to Request a Hearing, 68 Fed. Reg. 796 (Jan. 7, 2003). On February 28, 2002, NFS requested its first BLEU Project amendment and on October 23, 2003 it requested its third; Petitioners’ stay request concerns neither of those amendments.

<sup>4</sup> Environmental Assessment and Finding of No Significant Impact of License Amendment for Nuclear Fuel Services, Inc. 67 Fed. Reg. 45,555, 45,558 (2002); U.S. Nuclear Regulatory Commission, Division of Fuel Cycle Safety and Safeguards, NMSS, Environmental Assessment for Proposed License Amendments to Special Nuclear Material License No. SNM-124 Regarding Downblending and Oxide Conversion of Surplus High-Enriched Uranium (June 2002) (“1<sup>st</sup> EA”).

<sup>5</sup> Environmental Assessment and Finding of No Significant Impact for License Amendment Request Dated October 11, 2002, Blended Low-Enriched Uranium Preparation Facility (Sept. 17, 2003) (“2<sup>nd</sup> EA”).

cations for the BLEU Project.<sup>6</sup> They asserted that proceeding with hearings on the individual license amendments would be “inconsistent with NEPA” and inefficient. *Id.* at 4. On January 21, 2003, the Presiding Officer granted Petitioners’ request. Nuclear Fuel Services, Inc. (Erwin, Tennessee), LBP-03-1, 57 NRC 9, 17 (2003).

On January 21, 2003, the same day the Presiding Officer granted their request to hold the proceeding in abeyance, Petitioners also requested an injunction from the Commission to bar NFS from conducting construction activities related to the BLEU Project, alleging that construction was proceeding before the NRC Staff had completed its environmental review.<sup>7</sup> On April 29, 2003, the Commission squarely rejected Petitioners’ request, holding that 1) the Staff had completed its environmental review with respect to the first license amendment, 2) the NRC did not have authority under NEPA to bar outright the mere construction of NFS’s facilities, and 3) Petitioners had “nowhere indicate[d] how they might suffer immediate environmental harm simply as a result of new building construction.” Nuclear Fuel Services, Inc. (Erwin, Tennessee), CLI-03-3, 57 NRC 239, 247-50 (2003).

On January 13, 2004, the NRC Staff issued the second license amendment and its supporting Safety Evaluation Report (“SER”) concerning the activities to be conducted under that amendment.<sup>8</sup> The SER concluded that “there is reasonable assurance that the activities to be authorized by the issuance of an amended license to NFS will not constitute an undue risk to the health and safety of the public, workers, and the environment.”

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<sup>6</sup> Request by Friends of the Nolichucky River Valley, State of Franklin Group of the Sierra Club, Oak Ridge Environmental Peace Alliance, and Tennessee Environmental Council To Hold Proceeding in Abeyance Pending Submission of Additional License Amendment Applications, (Nov. 27, 2002).

<sup>7</sup> “Petitioners’ Emergency Request to Enjoin Construction by NFS of BLEU Project Facilities” (Jan. 21, 2003) at 1-2.

<sup>8</sup> Letter from Gary S. Janosko, Chief, Fuel Cycle Facilities Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards, USNRC, to B. Marie Moore, Vice President, Safety and Regulatory, NFS (Jan. 13, 2004); Safety Evaluation Report for Nuclear Fuel Services, Inc., License Amendment 47, Blended Low-Enriched Uranium Preparation Facility (January 2004) (“SER”).

SER at 21.0-1 (emphasis added). Pursuant to 10 C.F.R. § 2.1263, Petitioners now ask the Presiding Officer for the extraordinary relief of a stay of the Staff's approval of the second license amendment.

## II. ANALYSIS

Petitioners' stay request should be denied. First, it has yet to be determined that Petitioners qualify to be parties to this proceeding. Second, each of the four factors relevant to granting a stay weighs heavily against Petitioners. Indeed, under 10 C.F.R. Subpart L, Staff licensing actions and public hearings are intended to proceed independently. "[T]he Commission certainly contemplates that when the staff is able to reach a positive conclusion about the safety and environmental consequences of a proposed licensing request, it will take action despite a pending hearing request."<sup>9</sup> Petitioners, by contrast, cite no authority to support their stay request. Moreover, Petitioners' request at this point is wholly inconsistent with their request a year ago that this proceeding be held in abeyance until after the expiration of the opportunity for hearing on NFS's third amendment request.<sup>10</sup> Thus, there is no basis for granting the extraordinary relief Petitioners seek.

### A. Petitioners Are Not Parties and Thus Cannot Seek a Stay

Petitioners' stay request should be denied because they are not parties to this proceeding. See Texas Utilities Electric Co. (Comanche Peak Steam Electric Station, Units 1 and 2), CLI-89-6, 29 NRC 348, 354 (1989).<sup>11</sup>

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<sup>9</sup> Informal Procedures for Materials Licensing Adjudications, Final Rule, 54 Fed. Reg. 8269, 8273 (1989).

<sup>10</sup> See note 6, supra.

<sup>11</sup> See note 2, supra. To be parties, Petitioners must have standing and submit at least one germane area of concern. Atlas Corp. (Moab, Utah Facility), LBP-97-9, 45 NRC 414, 422 (1997); 10 C.F.R. §§ 2.1205(e) and (h). Petitioners lack standing here and have filed no germane areas of concern. See Applicant's Answer to Second 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 (Feb. 21, 2003) at 6-14.

**B. Petitioners' Request Does Not Meet the Legal Standards For a Stay**

Petitioners' request should also be denied because it does not warrant the granting of such extraordinary relief.<sup>12</sup> Petitioners clearly fail to satisfy the legal factors necessary to warrant a stay. It is firmly established that the "burden of persuasion" in obtaining injunctive relief, e.g., a stay, "rests on the moving party." Alabama Power Co. (Joseph M. Farley Nuclear Plant Units 1 and 2), CLI-81-27, 14 NRC 795, 797 (1981). The factors governing whether a stay should be granted are:

- (1) Whether the moving party has made a strong showing that it is likely to prevail on the merits;
- (2) Whether the party will be irreparably injured unless a stay is granted;
- (3) Whether the granting of a stay would harm other parties; and
- (4) Where the public interest lies.

10 C.F.R. §§ 2.788(e) (emphasis added), 2.1263. Petitioners fail to meet their burden regarding any of these factors.

**1. Petitioners are not likely to prevail on the merits**

To make the "strong showing" that they are likely to prevail, Petitioners "must do more than merely establish possible grounds" for success. Farley, CLI-81-27, 14 NRC at 797. Furthermore, "an 'overwhelming showing of likelihood of success on the merits' is necessary to obtain a stay where the showing on the other three factors is weak." Id. (emphasis added, footnote omitted).

Petitioners claim that a stay must be granted because the NRC Staff has violated NEPA and has not met its commitment to the Commission to conduct a complete and independent environmental review. Stay Req. at 1-2. Petitioners are wrong on both counts.

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<sup>12</sup> The Presiding Officer granted without allowing for opposing argument Petitioners' motion to file their stay request out of time. For the purpose of preserving its argument on appeal, NFS notes that it intended to oppose Petitioners' request for an extension and that case law states that the regulations do not provide for extensions on stay requests. International Uranium (USA) Corp. (Receipt of Material from Tonawanda, New York), LBP-98-19, 48 NRC 83, 85 (1998) (denying extension, citing 10 C.F.R. § 2.1263 (request "must be filed" within 10 days of Staff action)); International Uranium (USA) Corp. (White Mesa Uranium Mill), LBP-02-9, 55 NRC 227, 231 (2002).

Petitioners' claim that the 2<sup>nd</sup> EA is incomplete because it inappropriately depends on the conclusion in the then unpublished SER that the NFS facility can be operated without significant risk from accidents. See Stay Req. at 5-7. At this juncture Petitioners' argument has become moot, because the Staff has published the SER for the second license amendment which concluded that "there is reasonable assurance that the activities to be authorized by the issuance of an amended license to NFS will not constitute an undue risk to the health and safety of the public, workers, and the environment." SER at 21.0-1 (emphasis added). In addition, the 2<sup>nd</sup> EA states clearly that its conclusion with respect to accident safety is "[b]ased on the information provided by NFS." 2<sup>nd</sup> EA at 4.<sup>13</sup> The Commission has made clear that the NRC's environmental and safety review processes proceed on independent tracks and that the agency can complete an environmental review, based on the environmental information provided to it, without having yet completed its safety review.<sup>14</sup> Thus, the environmental review is "final" and the Staff has made no error. The fact that the safety review may provide "additional confidence" that potential accidents will not represent a significant impact on the environment does not mean that the Staff must complete the safety review prior to issuing the EA and FONSI.

Petitioners also claim that the environmental review is inadequate because the risk from accidents associated with the second license amendment is significant, in that the 1<sup>st</sup> EA describes the hazardous materials that will be used under the second amendment<sup>15</sup> and it states that "[a]n uncontrolled release" could pose a risk to the environment. Stay

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<sup>13</sup> Petitioners' assertion that the Staff did not independently confirm the validity of NFS's information, see Stay Req. at 6-7, is mere speculation. Moreover, it was appropriate for the Staff to have based its conclusion on information provided by NFS—NRC environmental regulations require applicants to provide such information to the Staff, which serves as the initial basis for the Staff's environmental review. 10 C.F.R. §§ 51.41, 51.60.

<sup>14</sup> See Duke Cogema Stone & Webster (Savannah River Mixed Oxide Fuel Fabrication Facility), CLI-02-7, 55 NRC 205, 220-21 (2002); Nuclear Fuel Services, CLI-03-3, 57 NRC at 247 n.46.

<sup>15</sup> The conclusion of the 2<sup>nd</sup> EA with respect to the impact from potential accidents is based on the assessment documented in the 1<sup>st</sup> EA. See 2<sup>nd</sup> EA at 4.

Req. at 7 & n.18 (quoting 1<sup>st</sup> EA at 5-7). What Petitioners ignore, however, is that the 1<sup>st</sup> EA also states that, “The evaluation of potential accidents is carried out . . . in this report to establish that the proposed processes . . . will function safely with no significant impacts to safety or the environment.” 1<sup>st</sup> EA at 5-7 (emphasis added). (Petitioners also disregard the SER’s conclusions that accidents would not pose a significant risk. See SER at 8.0-3, 9.0-9, 10.0-5.) Indeed, many of the processes related to the second amendment have been conducted safely at NFS for years. See note 16, infra. Thus, Petitioners are simply contradicting the EA’s conclusion with no basis whatsoever. The fact that materials will be present that could pose a hazard in the event of an uncontrolled release does not mean that such a release is at all likely and thus it does not mean that the materials pose a significant risk.

Petitioners go on to claim that the Staff’s conclusion was based only on an assumption that so long as NFS complied with applicable safety regulations there would be no significant impacts; thus the Staff failed to examine the risks of facility operation despite regulatory compliance. Stay Req. at 8-9. This assertion, again, is wrong. The EA states that “an evaluation of available information was performed to determine potential hazards . . . . In each instance, the evaluation examines the inventory of materials to be used, the processing parameters, and the reactions occurring in the process, to evaluate potential hazards in each facility.” 1<sup>st</sup> EA at 5-7. For the BLEU Preparation Facility, the EA considered the materials that will be present, tank sizes, controls, locations, the use of spill containment berms, the processes to be performed, and measures to control criticality and chemical safety and provide for the safe handling of radioactive materials. See id. at 5-7 to 5-9. Petitioners point to nothing in any of the Staff’s analyses to show their inadequacy.

Finally, Petitioners complain that the Staff has not taken the requisite “hard look” at environmental impacts because it was allegedly unclear as to how the 2<sup>nd</sup> EA relied on

the 1999 EA for NFS's license renewal and it was inappropriate to rely on the 1<sup>st</sup> EA because it is allegedly incomplete. Stay Req. at 9. First, Petitioners do not challenge any assessments in the 1999 EA<sup>16</sup> (or even cite them), so they have no basis for saying that they are inadequate. Second, Petitioners' incompleteness argument is rendered moot by the 2<sup>nd</sup> EA (with its updated information and analysis) and FONSI which constitute the final environmental review for the second license amendment.<sup>17</sup> In sum, Petitioners' stay request should be denied, as it is highly unlikely that they will succeed on the merits.

**2. Petitioners will not be irreparably injured absent a stay**

Petitioners claim that they will be irreparably harmed "in the form of an unacceptable risk to their health and environment" resulting from potential accidents at the NFS facility because the Staff has not conducted a "thorough environmental review." Stay Req. at 9. As discussed above, Petitioners' claims are baseless and amount to no more than the contradiction of the discussions and conclusions of the EAs. Moreover, as a matter of law, speculation about harm from potential accidents does not constitute the irreparable injury required for staying a licensing decision. Public Service Co. of New Hampshire (Seabrook Station, Units 1 and 2), CLI-90-3, 31 NRC 219, 259-260 (1990). In addition, Petitioners do not even allege that the second amendment violates any safety regulations; they only allege a violation of NEPA. "[A] plaintiff seeking injunctive relief must prove irreparable harm and [the] mere violation of NEPA or other environmental statutes is insufficient to merit an injunction." Hydro Resources, Inc. (2929 Coors Road, Suite 101, Albuquerque, NM 87120), CLI-98-8, 47 NRC 314, 323 n.13 (1998) (citing

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<sup>16</sup> See Environmental Assessment for Renewal of Special Nuclear Material License No. SNM-124, Nuclear Fuel Services, Inc., Erwin, Tennessee, Docket 70-143 (January 1999) §§ 2.1.1.3 (Downblending Operations), 5.1 (Environmental Consequences of the Proposed License Renewal); 2<sup>nd</sup> EA at 2 (relying on 1999 EA regarding uranium solution blending).

<sup>17</sup> The passage in CLI-03-3 cited by Petitioners regarding the alleged incompleteness of the 1<sup>st</sup> EA (57 NRC at 244-45) was a Staff statement of its intention to prepare the 2<sup>nd</sup> EA (or an EIS if it had been necessary) for the second license amendment.



cases). Of the four factors, “the most crucial is whether irreparable injury will be incurred by the movant absent a stay.” Farley, CLI-81-27, 14 NRC at 797. Petitioners’ showing here is completely inadequate; thus their request should be denied.

**3. NFS, DOE, Framatome ANP (“Framatome”), the Tennessee Valley Authority (“TVA”), and the public will suffer significant harm if a stay is granted**

NFS, DOE, Framatome, TVA, and the local public stand to suffer economic harm from a stay. NFS has based its hiring and contracting for the BLEU Project on a schedule which includes the uninterrupted performance of project activities. Any significant delay would result in employee layoffs and financial losses. Declaration of Dwight B. Ferguson, Jr. (Exhibit A) ¶¶ 5-6. Petitioners are wrong when they claim that a stay of the effectiveness of the second license amendment would not delay NFS’s participation in the project. See id. A stay would harm Framatome by keeping it from meeting its contractual obligations to TVA and imposing additional costs to mobilize and demobilize subcontractors working on the BLEU Project. Declaration of Leonard W. Newman (Exhibit C) ¶¶ 6-9. TVA would be harmed by the increased costs of nuclear fuel needed to replace material from the BLEU Project. Declaration of James T. Robert (Exhibit B) ¶ 5. Delay could also result in suspension or termination of TVA’s fuel fabrication contract with Framatome with substantial economic consequences to TVA and its customers. Id.

The local economy, in which NFS is a major employer, would be harmed by a stay. Local workers, their families, and the community would suffer from the impacts of a project delay. Declaration of Larry Rose (attached as Exhibit E) ¶¶ 4-5.

The greatest harm would be the irreparable adverse impact on the United States’ commitment to reducing the threat from proliferation of nuclear weapons. A stay would delay the disposition of excess HEU pursuant to United States policy and an agreement between the United States and Russia on the nonproliferation of weapons of mass de-

struction.<sup>18</sup> Such disposition is necessary to eliminate the potential for reuse of the material, to demonstrate the United States' commitment to disposal of surplus HEU, and to encourage other nations to take similar actions. Id. at 1-3.

**4. The public interest lies in timely completion of the BLEU Project**

It is uncontroverted that timely completion of the BLEU project is in the public interest. The reduction of stockpiles of surplus HEU benefits the entire international community. The United States has made an international commitment to take action in reducing the world's stockpile of HEU. DOE EIS at 1-1 to 1-3. Unwarranted delay would undermine the United States' leadership position in this important project. Thus, the public interest far outweighs Petitioners' concerns over the clarity of the NRC NEPA process (see Stay Req. at 10).

**III. CONCLUSION**

For the foregoing reasons, the Presiding Officer should decline to grant a stay.

Respectfully submitted,



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February 5, 2004

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<sup>18</sup> See USDOE, Office of Fissile Materials Disposition, *Disposition of Surplus Highly Enriched Uranium*, Final Environmental Impact Statement 1-1 to 1-2 (1996) ("DOE EIS") (attached as Exhibit D).

## CERTIFICATE OF SERVICE

I hereby certify that copies of Applicant's Opposition to Sierra Club et al.'s Application for Stay of NRC Staff Decision to Issue Second License Amendment for NFS BLEU Project 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 5th day of February, 2004.

*Office of Commission Appellate Adjudication U.S. Nuclear Regulatory Commission Washington, D.C. 20555-0001	Administrative Judge Alan S. Rosenthal, Presiding Officer Atomic Safety and Licensing Board Panel Mail Stop – T-3 F23 U.S. Nuclear Regulatory Commission Washington, D.C. 20555-0001 Fax: 301-415-5599 email: <a href="mailto:rsnthl@comcast.net">rsnthl@comcast.net</a> ; <a href="mailto:sam4@nrc.gov">sam4@nrc.gov</a>
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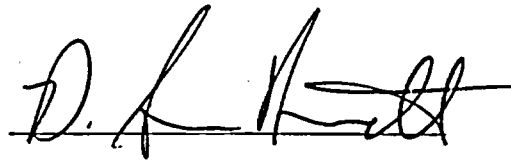
Administrative Judge Richard F. Cole, Special Assistant Atomic Safety and Licensing Board Panel Mail Stop – T-3 F23 U.S. Nuclear Regulatory Commission Washington, D.C. 20555-0001 Fax: 301-415-5599 Email: <a href="mailto:rfa1@nrc.gov">rfa1@nrc.gov</a>	Dennis C. Dambly Marian L. Zobler Office of the General Counsel Mail Stop: O-15 D21 U.S. Nuclear Regulatory Commission Washington, D.C. 20555 Fax: 301-415-3572 Email: <a href="mailto:dac3@nrc.gov">dac3@nrc.gov</a> ; <a href="mailto:jme@nrc.gov">jme@nrc.gov</a> ;
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A handwritten signature in black ink, appearing to read "D. L. Helms", written over a horizontal line.

\* by U.S. mail only

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**UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION**

**Before the Presiding Officer**

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

**DECLARATION OF DWIGHT B. FERGUSON, JR.**

Dwight B. Ferguson, Jr. states as follows under penalties of perjury:

1. I am Dwight B. Ferguson, Jr., the Chief Executive Officer of Nuclear Fuel Services, Inc. ("NFS"), located in Erwin, Tennessee.
2. On July 7, 2003, NFS received Amendment 39 to its 10 C.F.R. Part 70 special nuclear material license to authorize the storage of low-enriched uranium ("LEU")-bearing materials at the Uranyl Nitrate Building ("UNB") at NFS's nuclear fuel fabrication and uranium recovery facilities in Erwin, Tennessee.<sup>1</sup> On January 13, 2004, NFS received Amendment 47 to its special nuclear materials license to authorize processing operations in the Blended Low-Enriched Uranium Processing Facility ("BPF") at its Erwin facilities.<sup>2</sup>
3. The license amendments are the first two of three amendments that will be necessary to support process operations associated with the portion of the Blended Low-Enriched Uranium (BLEU) Project that will be performed at NFS. 67 Fed. Reg. at 66,173. The BLEU

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<sup>1</sup> Letter from Susan M. Frant, Chief, Fuel Cycle Facilities Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Materials Safety and Safeguards, U.S. NRC to B. Marie Moore, Vice President, Safety and Regulation, NFS (July 7, 2003) ("Amendment 39").

<sup>2</sup> Letter from Gary S. Janosko, Chief, Fuel Cycle Facilities Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Materials Safety and Safeguards, U.S. NRC to B. Marie Moore, Vice President, Safety and Regulation, NFS (January 13, 2004) ("Amendment 47")

Project is part of a Department of Energy ("DOE") program to reduce stockpiles of surplus high enriched uranium ("HEU") through re-use or disposal as radioactive waste.<sup>3</sup> Re-use of the HEU as LEU is the favored option of the DOE program because it converts nuclear weapons grade material into a form unsuitable for weapons, it allows the material to be used for peaceful purposes, and it allows the recovery of the commercial value of the material. Id.

4. Operations associated with the BLEU Project that will be performed at NFS' Erwin, Tennessee facility are: 1) storing low-enriched uranyl nitrate solution from DOE's Savannah River Site ("SRS") at NFS's Erwin, Tennessee facility, 2) downblending highly enriched uranium/aluminum alloy and HEU metal to low-enriched uranyl nitrate solution, 3) converting the low-enriched uranyl nitrate solution to uranium dioxide ("UO<sub>2</sub>") powder, and 4) shipping the UO<sub>2</sub> powder to Framatome ANP, Inc., which will convert it into commercial reactor fuel to be used in Tennessee Valley Authority ("TVA") nuclear power reactors. The first license amendment enables the construction and storage of low-enriched uranyl nitrate solution at the UNB. The second license amendment enables the downblending of HEU to LEU at NFS. The third license amendment will enable the conversion of uranyl nitrate solution to UO<sub>2</sub> and associated effluent processing. EA at 1-2 to 1-3. NFS submitted the third license amendment request on October 23, 2003.<sup>4</sup> Under the current schedule, NFS expects conversion of uranyl nitrate to UO<sub>2</sub> to begin by August 2004.

5. Any legal action that would halt NFS's participation in the BLEU project as currently scheduled would cause harm in several respects. First, it would require NFS to lay off

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<sup>3</sup> U.S. Nuclear Regulatory Commission, Division of Fuel Cycle Safety and Safeguards, NMSS, Environmental Assessment for Proposed License Amendments to Special Nuclear Material License No. SNM-124 Regarding Downblending and Oxide Conversion of Surplus High-Enriched Uranium (June 2002) ("EA") at 1-3.

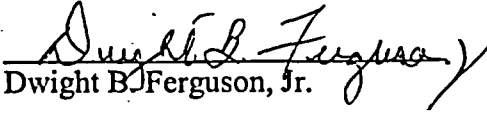
<sup>4</sup> Letter from B. Marie Moore, Vice President, Safety and Regulation, NFS, to Director, Office of Nuclear Materials Safety and Safeguards, U.S. NRC (October 23, 2003)

workers at NFS whom NFS plans to use to construct and operate facilities for the BLEU Project. Currently, there are approximately 100 workers and support personnel at the NFS site engaged in a decommissioning project that is substantially complete. NFS plans to reassign the majority of these workers to operational and support positions for the BLEU Project. If NFS's BLEU Project activities are halted for any significant length of time, NFS would be forced to lay off those workers. In addition, NFS' planned hiring of contractor personnel would also be delayed. Such a result would clearly cause harm to those workers from the loss of income. Given the economic conditions in the region around Erwin, Tennessee it could be difficult for any laid off workers to find other employment in a timely manner, which would cause further harm to them and their families.

6. Halting NFS's participation in the BLEU project would also cause harm because it would keep NFS from meeting contractual obligations with Framatome for the provision of  $UO_2$  to be fabricated into reactor fuel pellets to be used in TVA reactors. Under the current schedule for the license amendments, conversion of uranyl nitrate to  $UO_2$  is scheduled to begin in August 2004. Framatome will be installing new process equipment in its Richland, Washington plant to make fuel pellets from the  $UO_2$  and to load fuel assemblies. That equipment should be operational by the third quarter of 2004. At that time, Framatome would make the fuel assemblies to be used to refuel the TVA Browns Ferry nuclear reactors beginning in early 2005. If NFS's participation in the BLEU Project were delayed by staying the effectiveness of the second license amendment, NFS would be harmed because it would be unable to meet its contractual obligation to Framatome to deliver  $UO_2$  by mid-2004. NFS's inability to provide  $UO_2$  to Framatome could harm Framatome by preventing it from fabricating and providing fuel for the Browns Ferry reactors, which in turn could cause harm to TVA by denying it the source of fuel it has envisioned for the reactors.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 4, 2004

  
Dwight B. Ferguson, Jr.



**UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION**

**Before the Presiding Officer**

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

**DECLARATION OF JAMES T. ROBERT**

James T. Robert states as follows under penalties of perjury:

1. I am employed by the Tennessee Valley Authority ("TVA") within TVA's Nuclear Fuel organization as Manager, Nuclear Fuel Projects, a position I have held since January 1994. Prior to being assigned to this position, I held the positions of Manager, Nuclear Fuel Economics (December 1991-January 1994); Manager, Nuclear Fuel Engineering (May 1985-December 1991); Supervisor, Core Design (May 1980-May 1985); and Nuclear Fuel Engineer (January 1975-May 1980). I have official and personal knowledge of the matters stated herein.

2. As Manager, Nuclear Fuel Projects, I am responsible for directing highly specialized projects related to the safe and economical use of nuclear fuel in TVA's reactors. TVA's Nuclear Fuel organization is responsible for nuclear fuel procurement, its utilization in TVA's reactors, and for engineering support to ensure the safe operation of the fuel.

3. In April 2001, TVA entered into an agreement with Framatome ANP ("Framatome") to provide nuclear fuel fabrication services using Blended Low Enriched Uranium ("BLEU") as the source of uranium for fuel fabrication. These services include the receipt and storage of blended low enriched uranium solution delivered from the U.S.

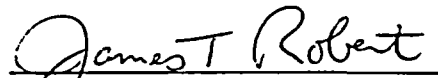
Department of Energy's Savannah River Site, the preparation of blended low enriched uranium solution from highly enriched uranium delivered from the U.S. Department of Energy sites at Savannah River and Oak Ridge, and the conversion of the blended low enriched uranium solutions to low enriched uranium dioxide powder. To accomplish these services, it is necessary for Framatome to construct facilities on the site of its prime subcontractor, Nuclear Fuel Services ("NFS") in Erwin, Tennessee. NFS will operate the facilities to carry out Framatome's contractual obligations to TVA.

4. The schedule for design, construction, and licensing of the facilities to be built for the BLEU Project is based on providing the first nuclear fuel reload fabricated from BLEU to TVA by January 2005.

5. If the BLEU Project is delayed by the "Sierra Club et al.'s Application for Stay of NRC Staff Decision to Issue Second License Amendment for NFS BLEU Project," dated January 26, 2004, TVA will be harmed financially through increased costs for nuclear fuel procurement. To date, TVA has expended \$53 million (with pending invoices for approximately \$20 million) on the BLEU project. The schedule for construction and operation of the necessary fuel processing facilities at the NFS site does not have the flexibility to allow a several month delay and still provide the uranium dioxide powder needed for the first BLEU reload in January 2005. If BLEU is not available to provide the January 2005 fuel reload, TVA will have to procure enriched uranium from the market for this reload. Based upon the information currently available to me, the net impact of delaying use of BLEU in this single reload would be a present value loss of approximately \$7 million and higher fuel costs for TVA's customers. Further regulatory-caused delays could potentially result in the suspension or termination of TVA's contractual arrangement with Framatome, resulting in a much more severe economic impact to TVA and its customers.

Pursuant to 28 U.S.C. § 1746 (1994), I declare under penalty of perjury that the foregoing is true and correct.

Executed this 2<sup>nd</sup> day of February, 2004

  
James T. Robert

**UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION**

**Before the Presiding Officer**

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

**DECLARATION OF LEONARD W. (LEN) NEWMAN**

Len Newman states as follows under penalties of perjury:

1. I am employed by Framatome ANP, Inc. ("FANP") as Project Manager for the FANP portion of the Blended Low-Enriched Uranium ("BLEU") Project. I have been Project Manager for FANP since June 2003. My duties consist of overall program management of the BLEU Project within FANP, including matters relating to contract management and administration.

2. On July 7, 2003, NFS received Amendment 39 to its 10 C.F.R. Part 70 special nuclear material license to authorize the storage of low-enriched uranium ("LEU")-bearing materials at the Uranyl Nitrate Building ("UNB") at NFS's nuclear fuel fabrication and uranium recovery facilities in Erwin, Tennessee.<sup>1</sup> On January 13, 2004, NFS received Amendment 47 to its special nuclear materials license to authorize processing operations in the Blended Low-Enriched Uranium Processing Facility ("BPF") at its Erwin facilities.<sup>2</sup>

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<sup>1</sup> Letter from Susan M. Frant, Chief, Fuel Cycle Facilities Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Materials Safety and Safeguards, U.S. NRC to B. Marie Moore, Vice President, Safety and Regulation, NFS (July 7, 2003) ("Amendment 39").

<sup>2</sup> Letter from Gary S. Janosko, Chief, Fuel Cycle Facilities Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Materials Safety and Safeguards, U.S. NRC to B. Marie Moore, Vice President, Safety and Regulation, NFS (January 13, 2004) ("Amendment 47")

3. The license amendments are the first two of three amendments that will be necessary to support process operations associated with the portion of the BLEU Project that will be performed at NFS. 67 Fed. Reg. at 66,173. The BLEU Project is part of a Department of Energy ("DOE") program to reduce stockpiles of surplus high enriched uranium ("HEU") through re-use or disposal as radioactive waste.<sup>3</sup> Re-use of the HEU as LEU is the favored option of the DOE program because it converts nuclear weapons grade material into a form unsuitable for weapons, it allows the material to be used for peaceful purposes, and it allows the recovery of the commercial value of the material. Id.

4. FANP has several roles in the BLEU Project. First, FANP supplies plant and process design, equipment and manages the construction at NFS' Erwin, Tennessee facility of: 1) a storage facility for low-enriched uranyl nitrate, 2) a building for the conversion of the low-enriched uranyl nitrate solution to uranium dioxide ("UO<sub>2</sub>") powder, and 3) a building for effluent processing. FANP will also be responsible for shipping the UO<sub>2</sub> powder to a FANP facility in Richland, Washington. The second role is the fabrication of ceramic fuel pellets from the UO<sub>2</sub> for use in commercial reactors owned by Tennessee Valley Authority ("TVA"). Once the UO<sub>2</sub> arrives in Richland, FANP will press it into a ceramic fuel pellet. FANP will use these ceramic fuel pellets in the fabrication of nuclear fuel assemblies for use in TVA nuclear power reactors. The work for TVA is carried out by means of two separate contracts. In addition, downblending of highly enriched uranium/aluminum alloy and HEU metal to low-enriched uranyl nitrate solution carried by NFS on this project is being done under a subcontract arrangement with FANP.

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<sup>3</sup> U.S. Nuclear Regulatory Commission, Division of Fuel Cycle Safety and Safeguards, NMSS, Environmental Assessment for Proposed License Amendments to Special Nuclear Material License No. SNM-124 Regarding Downblending and Oxide Conversion of Surplus High-Enriched Uranium (June 2002) ("EA") at 1-3.

5. For the project activities in Erwin, Tennessee, the first license amendment enables the storage of low-enriched uranyl nitrate solution at the UNB. The second license amendment enables the downblending of HEU to LEU at NFS. The third license amendment will enable the conversion of uranyl nitrate solution to  $\text{UO}_2$  and associated effluent processing. EA at 1-2 to 1-3. NFS submitted the third license amendment request on October 23, 2003.<sup>4</sup> Under the current schedule, NFS will be able to begin converting uranyl nitrate to  $\text{UO}_2$  by August 2004.

6. Any legal action that would halt NFS's, and thus, FANP's work on the BLEU Project as currently scheduled would cause harm to FANP because it would prevent FANP from meeting contractual obligations with TVA for providing  $\text{UO}_2$  fuel pellets for use as fuel in the fabrication of nuclear fuel assemblies to be used in TVA reactors. Under the current schedule for the license amendments, NFS would be able to begin converting uranyl nitrate to  $\text{UO}_2$  in August 2004. FANP will be installing new process equipment in its Richland, Washington plant to make fuel pellets from the  $\text{UO}_2$  and to complete fuel assemblies. That equipment should be operational by the third quarter of 2004. Any delay in construction activities at the Erwin, Tennessee facility cannot be recovered through any means available to FANP.

7. TVA would also be harmed by a delay because it would incur FANP's additional costs to complete its portion of the BLEU Project. These costs would result from the demobilization and remobilization of a number of subcontractors presently working at Erwin, Tennessee. In addition, material and labor costs would increase if the delays were significant and the project would lose construction efficiencies thereby increasing overhead and administrative costs.

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<sup>4</sup> Letter from B. Marie Moore, Vice President, Safety and Regulation, NFS, to Director, Office of Nuclear Materials Safety and Safeguards, U.S. NRC (October 23, 2003)

8. FANP may have to reduce staff if a delay were significant. FANP has hired personnel specifically for the BLEU Project and while it may find other work for them over a short period of time, any delay of significance would result in a reduction in force.

9. FANP had expected to recognize substantial revenues for delivery of pellets under its BLEU contract with TVA beginning in 2004 and fuel assemblies beginning in 2005. If the receipt of this revenue is delayed because FANP is unable to meet its contractual commitments to TVA, FANP will attempt to find other sources of revenue to support its operations to prevent financial harm to FANP.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this third day of February 2004

  
Leonard W. Newman



## Office of Fissile Materials Disposition

United States Department of Energy

# Disposition of Surplus Highly Enriched Uranium Final Environmental Impact Statement Volume I

June 1996

For Further Information Contact:

U.S. Department of Energy

Office of Fissile Materials Disposition, 1000 Independence Ave., SW, Washington, D.C. 20585



# Chapter 1

## Introduction, Purpose of, and Need for the Proposed Action

### 1.1 INTRODUCTION

The Department of Energy (DOE) is the Federal agency responsible for the management, storage, and disposition of weapons-usable fissile materials from U.S. nuclear weapons production and dismantlement activities. Highly enriched uranium (HEU) is a weapons-usable fissile material; in certain forms and concentrations, it can be used to make nuclear weapons.<sup>1</sup> In accordance with the *National Environmental Policy Act* of 1969 (NEPA), the Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500–1508), and DOE's NEPA Implementation Procedures (10 CFR Part 1021), DOE has prepared this environmental impact statement (EIS) to evaluate alternatives for the disposition of U.S.-origin HEU that has been or may be declared surplus to national defense or national defense-related program needs by the President.

This EIS consists of two volumes. Volume I contains the main text and the technical appendices that provide supporting details for the analyses contained in the main text. Volume II contains the comments received on the HEU Draft EIS during the public review period and the DOE responses to those comments. A summary of the *Disposition of Surplus Highly Enriched Uranium Final Environmental Impact Statement* (HEU EIS) is also available as a separate document. Changes to the HEU Draft EIS are shown by side bar notation (vertical lines adjacent to text) in this HEU Final EIS for both the text and tables. Deletion of one or more sentences is indicated by the phrase "text deleted" in brackets. Similarly, where a table or figure has been removed, the phrase "table deleted" or "figure deleted" is shown.

<sup>1</sup> Plutonium (Pu) is the other major weapons-usable fissile material. This document covers the disposition of surplus HEU. The storage of nonsurplus Pu and the storage and disposition of surplus Pu, as well as the storage of nonsurplus HEU and surplus HEU before disposition (or continued storage of surplus HEU if no action is selected in the Record of Decision for this HEU EIS), are analyzed in the *Storage and Disposition of Weapons-Usable Fissile Materials Programmatic Environmental Impact Statement*, which was issued (in draft form) in February 1996.

Acting as lead agency, DOE requested the participation of agencies and organizations that have jurisdiction or expertise in the proposed action (40 CFR 1501.6). The Environmental Protection Agency (EPA) and United States Enrichment Corporation (USEC) have established frameworks for technical cooperation and each has signed a memorandum of understanding (MOU) with DOE concerning the development of the EIS for the disposition of surplus HEU (Appendix H). The EPA, which has authority under NEPA and under Section 309 [42 U.S.C. 7609] of the *Clean Air Act* and Amendments to review the proposed action, is a cooperating agency.

#### 1.1.1 BACKGROUND

The end of the Cold War created a legacy of weapons-usable fissile materials both in the United States and the former Soviet Union. Further agreements on disarmament between the two nations may increase the surplus quantities of these materials. The global stockpiles of weapons-usable fissile materials pose a danger to national and international security in the form of potential proliferation of nuclear weapons, and the potential for environmental, safety, and health consequences if the materials are not properly safeguarded and managed.

[Text deleted.]

In September 1993, President Clinton issued the Nonproliferation and Export Control Policy (Appendix A) in response to the growing threat of nuclear proliferation. Further, in January 1994, President Clinton and Russia's President Yeltsin issued a joint statement between the United States and Russia on nonproliferation of weapons of mass destruction and the means of their delivery (Appendix B). In accordance with these policies, the focus of the U.S. nonproliferation efforts in this regard is five-fold: to secure nuclear materials in the former Soviet Union; to assure safe, secure, long-term storage and disposition of surplus fissile materials; to establish transparent and irreversible nuclear reductions; to strengthen the nuclear nonproliferation regime; and to control nuclear exports.

## Highly Enriched Uranium—A Weapons-Usable Fissile Material

Fissile materials are capable of undergoing nuclear fission, the splitting of an atom that results in the release of a large amount of energy. Plutonium (Pu) and highly enriched uranium (HEU) are the primary fissile materials used as the explosive components of nuclear warheads. Uranium (U) in nature consists of a combination of isotopes, chemically identical elements with the same number of protons (the same atomic number) but different numbers of neutrons (different atomic weights). Natural uranium consists of, by weight, about 99.3-percent uranium-238 (U-238) (the isotope with an atomic weight of 238) and about 0.7-percent U-235 (the isotope with an atomic weight of 235). [Text deleted.]

Through technically complex, costly, energy-intensive, and time-consuming processes that exploit the slightly different sizes of the atoms of the different isotopes, uranium can be "enriched" in the U-235 isotope, which is the primary fissile isotope of uranium. (Because the isotopes are chemically identical, no simple chemical process can be used to effect enrichment.) Uranium that has been enriched from the natural level of 0.7 percent to the range of 3- to 5-percent U-235 can be used to fuel light water nuclear reactors that are used to generate electricity around the world. Uranium that has been enriched to 20-percent or greater U-235 is called "highly enriched" and can be used in nuclear weapons (it is a weapons-usable fissile material).

Whereas enriching uranium is difficult, reversing the process to reduce its enrichment is a relatively simple matter of dilution. Simply blending HEU with slightly enriched (1 to 2 percent), natural (0.7 percent), or depleted (0.2 to 0.7 percent) uranium by one of several available processes reduces the enrichment of the resulting mixture. By blending a product to less than 20-percent enrichment (low-enriched uranium [LEU]), the material is made unusable in nuclear weapons. The resulting LEU cannot be made weapons-usable without going through the difficult enrichment process again. [Text deleted.]

To demonstrate the United States' commitment to these objectives, the President announced on March 1, 1995, that approximately 200 metric tons (t) of fissile materials, 165 t of which are HEU, had been declared surplus to U.S. defense needs.<sup>2</sup> Continuing arms control processes may result in the dismantlement of additional weapons and result in further increases in surplus fissile materials, including HEU.

### 1.1.2 THE PROPOSED ACTION

The Department of Energy proposes to blend down surplus HEU to low-enriched uranium (LEU) to eliminate the risk of diversion for nuclear

proliferation purposes and, where practical, to reuse the resulting LEU in peaceful, beneficial ways that recover its commercial value.<sup>3</sup> Unlike plutonium (Pu), of which most isotopes are weapons-usable, only uranium that has been enriched to 20 percent or more in the uranium-235 (U-235) isotope could be used for weapons. The isotope most abundant in nature is U-238. Therefore, the weapons-usability of HEU can be eliminated by blending it with material that is low in U-235 and high in U-238 to create LEU. This isotopic blending process can be performed by blending HEU with depleted uranium (DU), natural uranium (NU), or LEU blendstock. Once HEU is blended down to LEU, it is no more weapons-usable than existing, abundant supplies of LEU. It would need to be re-enriched to be useful in weapons, which is a costly, technically demanding, and time-consuming process. Therefore, blending to LEU is the most timely and effective method for eliminating the proliferation threat of surplus HEU.

<sup>2</sup> The Secretary of Energy's *Openness Initiative* announcement of February 6, 1996, declared that the United States has about 213 t of surplus fissile materials, including the 200 t the President announced in March 1995. Of the 213 t of surplus materials, the *Openness Initiative* indicated that about 174.3 t (hereafter referred to as approximately 175 t) are HEU, including 10 t previously placed under International Atomic Energy Agency (IAEA) safeguards in Oak Ridge, Tennessee. The HEU Draft EIS, which identified the current surplus as 165 t, did not include the IAEA-safeguarded material.

<sup>3</sup> Low-enriched uranium has commercial value because at appropriate enrichment levels and in appropriate forms, it can be used as fuel for the generation of electricity in nuclear power plants.

The Department of Energy's inventory of surplus HEU consists of a variety of chemical, isotopic, and physical forms. If blended down, much of the resulting LEU will be suitable for commercial use in the fabrication of fuel for nuclear power plants. Other portions of the resultant LEU would contain uranium isotopes, such as U-234 and U-236, that would make them less desirable for commercial use. To the extent that they could not be commercially used, these portions would need to be disposed of as low-level waste (LLW). Some of the material, the "off-spec" material<sup>4</sup>, may or may not be suitable for commercial use because its isotopic composition would not meet current industry specifications for commercial nuclear reactor fuel. Nonetheless, it could be used as fuel under certain circumstances, as explained later in this EIS.

[Text deleted.]

[Figure deleted.]

All of the materials covered in the HEU EIS may be subject to international and/or bilateral inspection. All of the surplus fissile materials and the unclassified material forms may be subject to inspection by the International Atomic Energy Agency (IAEA) pursuant to the U.S./IAEA Safeguard Agreement or based on agreements between the United States and Russia to increase transparency of nuclear weapons dismantlement. Currently, 10 t of HEU is under IAEA safeguards in a storage vault at the Y-12 Plant. Future plans are to maximize the amount of surplus HEU under IAEA safeguards (pursuant to Presidential Decision Directives 13 and 41) in either static storage or down-blending operations. Facilities for surplus HEU

<sup>4</sup> Off-spec material is material that, when blended to LEU, would not meet industry standard (American Society for Testing and Materials) specifications for isotopic content of commercial nuclear reactor fuel. The ultimate disposition of the off-spec material will depend on the ability and willingness of nuclear fuel fabricators and nuclear utilities to use and the Nuclear Regulatory Commission to license the use of off-spec fuel. (For instance, fuel with a higher than usual proportion of the isotope U-236, which inhibits the fission process that is needed for reactors to produce heat and electricity, can still be used in nuclear fuel if the fuel is at a somewhat higher enrichment level. High levels of U-234 can have implications for worker radiation exposures in fuel fabrication.) Utilities have expressed some interest in the use of such material, but the practical extent of that interest will depend upon cost and market conditions, among other things.

disposition would need to accommodate inspection requirements. Other modifications to facility design might be needed should new treaties such as the *Open Skies Treaty* and the protocols for the *Biological and Chemical Warfare Conventions* become effective.

Because of the multiplicity of existing material forms and potential end products (commercial reactor fuel or LLW), disposition of the entire inventory of surplus HEU is likely to involve multiple processes, facilities, and business arrangements. As described in Section 1.4.2, DOE has established a Preferred Alternative in this EIS. The Preferred Alternative is to gradually blend down surplus HEU, sell the resulting LEU for commercial use, and eventually blend and dispose of the non-usable LEU as LLW.

## 1.2 PURPOSE OF AND NEED FOR THE PROPOSED ACTION

The Department of Energy proposes to blend down surplus HEU from the weapons program to LEU to eliminate the risk of diversion for nuclear proliferation purposes and, where practical, to reuse the resulting LEU in peaceful, beneficial ways that recover its commercial value. The purpose of the proposed action is to reduce the threat of nuclear weapons proliferation worldwide in an environmentally safe manner by reducing stockpiles of weapons-usable fissile materials, setting a nonproliferation example for other nations, and allowing peaceful, beneficial reuse of the material to the extent practical. [Text deleted.]

Comprehensive disposition actions are needed to ensure that surplus HEU is converted to proliferation-resistant forms consistent with the objectives of the President's nonproliferation policy. These proposed actions would essentially eliminate the potential for reuse of the material in nuclear weapons and would demonstrate the U.S. commitment to dispose of surplus HEU and encourage other nations to take similar actions toward reducing stockpiles of surplus HEU. [Text deleted.] The proposed actions would begin to reduce DOE's HEU inventory and costs associated with storage, accountability, and security rather than depending upon indefinite storage of all such material.



# Unicoi County

Post Office Box 169 • Erwin, Tennessee 37650 • (423) 743-9391 • FAX (423) 743-8007

Larry Rose  
County Mayor

## UNITED STATES OF AMERICA NUCLEAR REGULATORY COMMISSION

Before the Presiding Officer

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

### DECLARATION OF LARRY ROSE

Larry Rose states as follows under penalties of perjury:


1. I am County Executive of Unicoi County, Tennessee. The Nuclear Fuel Services, Inc. ("NFS") facility in Erwin, Tennessee, is located in Unicoi County.
2. NFS has received amendments to its NRC special nuclear material license to authorize (1) the storage of low-enriched uranium-bearing materials at the Uranyl Nitrate Building and, (2) processing operations in the Blended Low-Enriched Uranium Processing Facility at its Erwin, Tennessee facility.
3. The license amendments are the first two of three amendments that will be necessary to support the Blended Low-Enriched Uranium ("BLEU") Project that will be performed at NFS. The BLEU Project is part of a Department of Energy program to reduce stockpiles of surplus high enriched uranium through re-use or disposal as radioactive waste. On January 26, 2004, Sierra Club et al. requested the NRC to stay the issuance of the second license amendment related to the BLEU Project.
4. NFS informed the County that if a stay of the second BLEU license amendment is granted, NFS would be forced to lay off up to 100 current workers and support personnel at NFS.

whom NFS plans to assign to operational and support positions for the BLEU Project. NFS is the largest employer in Unicoi County, employing approximately 275 county residents. It is unlikely that any laid off NFS workers would be able to find new jobs in the region at comparable wages.

5. The loss of jobs at NFS would have a significant impact on the local economy. It would cause a reduction in spending in the county by laid off workers and their families. The reduction in spending would cause a loss of sales tax revenue to the county, which in turn would harm the county's ability to fund county schools and provide police, fire, and hospital services to county residents.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 3<sup>rd</sup> 2004

  
\_\_\_\_\_  
Larry Rose