

April 21, 2004

Annette Vietti-Cook, Secretary  
Office of the Secretary  
Mail Stop: O-16C1  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

In the Matter of  
NUCLEAR FUEL SERVICES, INC.  
(Material License Amendment-3)  
Docket No. 70-143-MLA-1, 2 & 3

Dear Secretary:

This is to advise that the Staff, unless directed otherwise, will not file a response to Ms. Kathy Helms-Hughes' "Motion for Appeal" dated April 1, 2004. As permitted by 10 C.F.R. § 2.1213<sup>1</sup>, and as reflected in letters dated September 13, 2002, February 20, 2003, and March 5, 2004, the NRC Staff ("Staff") originally elected not to participate as a party in the referenced proceedings. The Staff did not become a party to this consolidated proceeding until March 17, 2004, when the Presiding Officer, upon granting Sierra Club's hearing request, ordered the Staff's participation.<sup>2</sup>

Since the Staff was not a party at the time when responses to hearing requests were due, the Staff did not respond to the requests and therefore, did not take a position on the adequacy of Ms. Kathy Helms-Hughes' arguments regarding standing in her hearing requests.<sup>3</sup> Since the "Motion for Appeal" filed by Ms. Kathy Helms-Hughes' deals entirely with the

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<sup>1</sup> For cases docketed prior to February 13, 2004, the effective date of amendments to the NRC's Rules of Practice (10 C.F.R. Part 2), the former provisions of Part 2 continue to apply. See "Changes to Adjudicatory Process: Final Rule," 69 Fed. Reg. 2182 (Jan. 14, 2004).

<sup>2</sup> See "Memorandum and Order (Ruling on Hearing Requests)," LBP-04-05, 59 NRC \_\_ (March 17, 2004).

<sup>3</sup> See "Declaration of Kathy Helms-Hughes," November 29, 2002; "Request for Hearing and Leave to Intervene by Kathy Helms-Hughes in the Matter of Nuclear Fuel Services, Inc.'s Notice to Amend its NRC Special Nuclear Materials License SNM-124," February 7, 2003; and "Third Request for Hearing by Kathy Helms-Hughes Regarding Nuclear Fuel Services Proposed Blended Low-Enriched Uranium Project," February 2, 2004.

Presiding Officer's decision denying her standing, unless directed otherwise, the Staff takes no position regarding this matter.

Sincerely,

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Angela B. Coggins  
Counsel for NRC Staff

cc: Judge Alan S. Rosenthal, Presiding Officer  
Dr. Richard F. Cole, Special Assistant  
Daryl M. Shapiro, Esq.  
Sean Barnett, Esq.  
Diane Curran, Esq.

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