

RAS 14037

DOCKETED
USNRC

August 21, 2007 (8:00am)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF



**SIERRA
CLUB**
FOUNDED 1892

Radiation Committee

Linda C. Modica, Chair, 266 Mayberry Road, Jonesborough, Tennessee 37659

TEL: [423] 676-2925 (m); [423] 753-9697 (h); EMAIL: Linda.C.Modica@mac.com

August 20, 2007

Secretary

U.S. Nuclear Regulatory Commission

ATTN: Chief, Rulemaking & Adjudications Staff

Washington, D.C. 20555-0001

VIA FAX: (301) 415-1101

RE: DOCKET NO. 70-143, NUCLEAR FUEL SERVICES, INC., LICENSE NO. SNM-124

Dear Sir or Madam:

The Sierra Club's national Radiation Committee, acting on behalf of the national Sierra Club, respectfully requests a Hearing before the full Commission to be held in Tennessee within the community affected by Nuclear Fuel Services' (NFS) operations.

In a previous intervention with respect to NFS's license amendment applications for its Blended Low Enriched Uranium (BLEU) project, the Sierra Club -- acting through its local entities, the State of Franklin Group and the Tennessee Chapter -- was granted legal standing. The Sierra Club continues to serve members in Erwin, Tennessee -- the location of Nuclear Fuel Service's operations -- and in the downstream communities of Jonesborough and Greeneville, Tennessee. And, the Sierra Club has traditionally served -- and continues to serve through its Radiation Committee as well as its Chapters & Groups throughout the country, and other national Committees -- the general public's interests where clean air, clean water and clean energy are threatened by Nuclear Regulatory Commission (NRC) licensees. Therefore, there should be no question that the Sierra Club has standing to petition for a Hearing in this ordered amendment to NFS's license.

The Sierra Club interests, and the interests of its members and the general public which it serves, are one and the same. Those interests -- clean air, clean water, clean energy, clean land on which to grow healthful food, public health and safety -- are adversely affected by the Confirmatory Order in a number of particular ways.

First, no assessment of the environmental impacts of the Order were made. While previous license amendments resulted in inadequate Environmental Assessments (EA), at least the NRC did some analysis of the impacts to air, water and land of its proposed actions. None seemed to be done in this case. Or were they kept secret like so many other NRC and NFS reports? If an EA were produced but

kept secret through the NRC's "Official Use Only" (OUO) policy, then let the NRC produce the Environmental Assessment for the Public Hearing in Tennessee.

Second, the interest of public health and safety continues to be adversely affected by NFS which, despite the Confirmatory Order, is in serial non-compliance with NRC regulations. The cumulative impacts of the March 2006 spill, added to the impacts of the series of other violations committed by NFS since the BLEU license amendments were issued, are also not addressed by the Confirmatory Order.

Third, despite the fact that NFS repeatedly (since at least the mid-1980s) continues to fail to follow NRC directives and regulations, Region II nevertheless continues to grant license amendments and issue Findings of No Significant Impact (FONSIs) with blatant disregard for public health and safety. The public's interests are therefore harmed by this Confirmatory Order which merely nibbles around the edges of effective regulation of this licensee.

Fourth, the OUO policy wrongly applied to NFS's non-Naval, commercial downblending operations prevented the Agency for Toxic Substances and Disease Registry (ATSDR) from having information on current conditions of NFS's operations while the ATSDR was performing its Public Health Assessment of Erwin in 2006. By depriving another federal agency of information on the spill of highly-enriched uranium, wrong results on the public health hazard of NFS's operations were issued. It should, however, be noted by the Commission that, even when cloaked in a shroud of secrecy woven willfully by the NRC and the DOE, Nuclear Fuel Services' site was found by the ATSDR to be an "indeterminant public health hazard" under past conditions.

Fifth, the Ninth Circuit Court of Appeals decision requires that the NRC consider the impacts of terrorist attacks to a licensed facility. Further, the Compensatory Order states that "two security officers willfully failed to conduct a vehicle search" – a violation of a 2002 order from the NRC. Yet, the Compensatory Order fails to protect the public's interest in protection from terrorist attacks by not addressing the particular problem of slip-shod vehicle inspections in the ordered license amendment.

Sixth, abuse of the NRC's OUO policy by extending it to the non-Naval reactor/commercial downblending business of this licensee violates the public's trust that our public servants are conducting government regulation of licensed activities with openness and transparency. To remedy this violation of the public's right to know what its government is doing to and for it, the Sierra Club demands the public release of

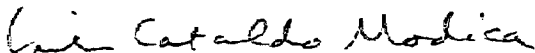
- a) all NRC correspondence in any form or format including but not limited to electronic communications (e.g., faxes, emails, etc.), enforcement documents, meeting notes or minutes, official and unofficial documents, and handwritten notes on telephone conversations with NFS relating to the March 6, 2006 spill of high enriched uranium (HEU);
- b) all NFS correspondence, reports and communications with the NRC regarding the March 6, 2006 spill of HEU;
- c) all documents relating to the BLEU process that were marked Official Use Only to keep accidents, violations or inspection reports secret;
- d) all correspondence, documents, reports, communications in any form or format (i.e., handwritten, electronic, printed, etc.) regarding the March 6, 2006 spill that transpired
 - a. between NRC and DOE
 - b. between NFS and DOE

- c. between NFS and TVA
- d. between NRC and TVA
- e. between DOE and TVA.

All correspondence with the Sierra Club needs to be through the Radiation Committee Chair, Linda Modica, who lives with her family and pets in the Nolichucky River watershed only 10 miles downwind and downstream of NFS. Paper copies of correspondence and of the requested documents should be sent to Linda Modica, 266 Mayberry Road, Jonesborough, TN, 37659 via US mail or other reliable delivery service.

Joining this Hearing Request is We the People, Inc.. Please send second copies of all correspondence with Linda Modica to Ann Harris, Executive Director, We the People, Inc., 341 Swing Loop Road, Rockwood, TN, 37854.

Respectfully submitted,



Linda Cataldo Modica

cc: Ann Harris
Sierra Club EQST Liaison to Radiation Committee
341 Swing Loop Road
Rockwood, TN 37854

VIA FAX: (865) 354-4559

cc: Pat Gallagher, Senior Staff Attorney
Sierra Club
85 Second Street, 2nd Floor
San Francisco, CA 94105

VIA U.S. POSTAL SERVICE

cc: Director, Office of Enforcement
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

VIA U.S. POSTAL SERVICE

cc: Assistant General Counsel for Materials
Litigation and Enforcement
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

VIA FAX: (301) 415-3725

cc: NRC Region II
61 Forsyth Street, SW
Atlanta, GA 30303

VIA U.S. POSTAL SERVICE

cc: Nuclear Fuel Services, Inc.
P.O. Box 337
Erwin, TN 37650

VIA U.S. POSTAL SERVICE

cc: Congressman John D. Dingell, Chairman
U.S. House of Representatives
Committee on Energy and Commerce
Washington, D.C. 20515-6115

VIA U.S. POSTAL SERVICE