

Commissioner
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

dockets # 70-7001/7002
October 27, 1996

Dear Commissioner,

This is a reply to the US Enrichment Corporation's October 21, 1996 Response to Donham/Hanson petition for review of the director's decision to grant tentative certification to the Paducah Gaseous Diffusion Plant.

As an initial matter, it appears that the Commission has consolidated the Paducah and Portsmouth dockets, although this consolidation doesn't appear anywhere on the record, to the best of the petitioners' knowledge. Petitioners have not brought any claims against the certification of the Portsmouth Plant, although this should not be construed as an admission or acknowledgment by the petitioners that the Portsmouth certification is in full compliance with all applicable regulations.

It is interesting that USEC's response to petitioners' claims reinforces petitioners' fears about the intentions of USEC to operate outside the light of public scrutiny, although their operations has a significant impact on the public - environmentally, strategically, and economically.

By attacking the petitioners' standing and by maintaining the position that there is no requirement to involve the public in NEPA environmental documents, USEC is taking the "low road". USEC is saying, "get out of here and leave us alone, you don't have a right to question us."

Petitioners had less than 15 days to prepare a petition. This is only an administrative review, we are not in court. Petitioners would be well prepared, given the proper opportunity, to submit all the necessary affidavits to establish standing. Petitioners drive on the public roads which travel less than a mile from the plant frequently. This travel is done to visit friends, do business, and use the public lands which surround the plant. Petitioner Donham actually has traveled to the plant and likely will continue to travel to the plant to attend meetings of the DOE site-specific advisory board, of which he is a member. Petitioners also work in Paducah, and go there daily. This is all in addition to the fact that the petitioners grow much of their own food, especially during the summer months, and therefore, are subject to the effects of even minute levels of contaminants entering their food supply. That is why the downwind factor is so critical. Petitioners plan to continue to reside at their current residence into the future, and hope to expand their food production.

Injury in fact does not have to be actual- it can be threatened. In this case, based on the already submitted evidence concerning past releases and already documented entering of dangerous radionuclides into the food chain off site, the threat of injury to the petitioners is concrete - certainly sufficient to merit standing in an administrative review. For USEC to suggest otherwise is irresponsible.

In terms of the requirement of the NRC to notify the public during the preparation of an EA, it is equally disheartening to hear the facility state that "we don't have to, and therefore, we're not going to." What an attitude from a facility which has contaminated the groundwater of private citizens so severely that it cannot be used and

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probably will never corrected. What an attitude from a facility which has over 200 toxic dumps and problem areas which continue to release serious pollutants into the environment. Yet, the USEC says, that in the past. Yeah, they're content dumping it all off on the taxpayers, while they want to take millions of taxpayers dollars with them, along with all of the profit making public assets into their private fiefdom. Then they want to turn to the public and say, get out of here, you don't have the right to even be concerned.

The fact is that NEPA does require public comment on a FONSI under conditions which are met here. This is clearly explained by the CEQ in their publication "40 most common questions about NEPA". They explain, (questions 37b)

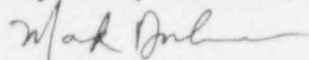
"Q. What are the criteria for deciding whether a FONSI should be made available for public review for 30 days before the agency's final determination whether to prepare an EIS?

A. Public review is necessary, for example, (a) if the proposal is a borderline case, i.e., when there is a reasonable argument for preparation of an EIS; (b) if it is an unusual case, a new kind of action, or a precedent setting case such as a first intrusion of even a minor development into a pristine area; (c) when there is either scientific or public controversy over the proposal; or (d) when it involves a proposal which is or is closely similar to one which normally requires preparation of an EIS. Sections 1501.4(e)(2), 1508.27. Agencies also must allow a period of public review of the FONSI if the proposed action would be located in a floodplain or wetland. E.O. 11988, Sec. 2(a)(4); E.O. 11990, Sec. 2(b).

Clearly these circumstances are present here. This action is precedent setting, is controversial, and very likely could have a significant effect on the environment. In addition, any new construction or other activities required as part of the compliance plan could very well be located in a wetland, as other projects there, such as the new cylinder yards, involved wetlands.

The commission should not dismiss petitioners for lack of standing. This would send the wrong message to the public. The commission should address the merits of the Petitioners' claims.

Respectfully submitted,



Mark Donham



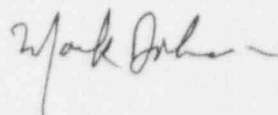
Kristi Hanson, petitioners

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Certificate of Service

Undersigned does hereby certify that on Oct. 27, 1996 he/she mailed, U.S. 1st class mail, and true and accurate copy of petitioners' reply to USEC's response to petitioner's claims in the above docketed case to:



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