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May 29, 1997

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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

ATOMIC SAFETY AND LICENSING BOARD PANEL

Before Administrative Judges:  
Peter B. Bloch, Presiding Officer  
Charles N. Kelber, Special Assistant

SERVED MAY 29 1997

\* RE-SERVED MAY 30 1997

In the matter of

Docket No. 40-8681-MLA

ENERGY FUELS NUCLEAR, INC.

Re: License Amendment

(White Mesa Uranium Mill;  
Alternate Feed Material)

ASLBP No. 97-726-03-MLA

NOTICE

Today I received: (1) a letter to Shirley Ann Jackson, Chairman, Nuclear Regulatory Commission, from Native American Petitioners, May 28, 1997; (2) a letter from Harold R. Roberts, International Uranium (USA) Corporation; (3) a letter to Shirley Jackson, Chairman, Nuclear Regulatory Commission, from Lula J. Katso, Community Spokesperson, Westwater Navajo Community, April 30, 1997; and (4) motions<sup>1</sup> filed by Richard A. Munson, Attorney

<sup>1</sup> The documents received from Mr. Munson include a Notice of Appearance, May 23, 1997, a Motion for Order Approving Substitution of Parties, May 23, 1997 (to which petitioners may respond as provided for in Subpart L.), a Motion for Order

at Law, on behalf of International Uranium (USA) Corporation (IUC).<sup>2</sup>

After reading and reflecting on these letters, I have decided that it is important to introduce myself more fully and to attempt to explain the nature of the proceeding over which I now preside.

I am Peter Bloch, an Administrative Judge who works full time for the Atomic Safety and Licensing Board Panel (Panel) of the U.S. Nuclear Regulatory Commission. Members of the Panel are required to render independent judgments in cases assigned to them, and there is a proud tradition of non-interference by any person who is not assigned as a judge to the case. In the fifteen years I have been on the Panel, no person has ever tried to influence my decision in a case.

With the assistance of Charles Kelber, who is a physicist and an administrative judge also assigned to the Panel, I have been assigned as Presiding Officer (or judge) in this case. My responsibilities must be exercised pursuant to Subtitle L of our

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Granting Leave to File Response, May 23, 1997, and an attached Response, which I may consider if I grant the leave to file.

<sup>2</sup> The letter from the Westwater Navajo Community is attached, as it does not appear to have been served on the service list in this case.

procedural rules (see, e.g., 10 C.F.R. § 2.1209) and to precedent found in Commission decisions and in the decisions of the courts of the United States.

Each of the native American petitioners in this case must establish, as I described in the decision I issued yesterday, that they are entitled to standing as a party.<sup>3</sup> (This Notice shall be served by express mail.) Similarly, the DOE must establish its standing as a party. The Staff of the Nuclear Regulatory Commission, represented by Mr. Sherwin Turk, is also a party. He will present the views of the Staff, and I must decide the outcome of each phase of this case.

My telephone number is 301-415-7453. Parties may not speak with me off the record about matters of substance. They may call me about procedural questions, which I will be pleased to discuss, particularly since some of the parties are not repre-

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<sup>3</sup> In its letter of May 5, 1997, Lula J. Katso states, "the Wastes Energy Fuels Nuclear wants to bring here have caused health hazards everywhere they have been. Reports say that they were being ingested though breathing the air, as well as through drinking water, while they were in Lincoln Park, Colorado." This statement suggests the possibility that standing could be based on plausible fears, providing enough documentation is provided to consider the fears plausible. Similarly, in its FAX of May 24 to Shirley Ann Jackson, petitioners appear to assert Environmental Justice Rights, which they may choose to explain further in their next filing.

sented by lawyers. If anything of importance happens during a telephone call, I will issue a notice for the record, so that I will not be hearing something from one party or saying anything to them that is not understood by all.

For papers to be considered in this case, they should be sent to me and to every other person on the service list. Since these are also public documents, copies may be sent to anyone else, including the Chairman of the Commission and the President of the United States. It is my solemn obligation, however, to decide this case myself; and I do not expect anyone even to attempt to exert external influence on me.

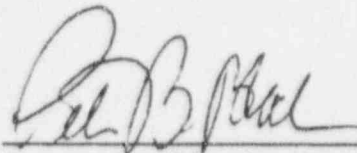
The Native Americans may choose to consolidate their participation as one party, or they may choose to seek independent party status. Whichever they do, reasonable accommodations may be made so that people related to a party may participate in the proceeding in appropriate ways.

I have reviewed the motions filed by Mr. Munson, and I have decided not to grant the Motion for Order Granting Leave to File Response. The motion was received after I issued my Memorandum and Order of May 28, 1997. After reviewing the filing, I find it to be generally helpful, and I will consider it together with any additional filings that may be received when participants

respond to yesterday's order. To some extent, Mr. Munson was more complete than I in explaining the application of the rules of standing to the petitions of the Native Americans. Therefore, I urge the petitioners to study his Response carefully. Petitioners may wish to follow the law as Mr. Munson has explained it or, if they prefer, to argue why a different theory of law should be applied.

Parties may respond, pursuant to the rules, to the Motion for Order Approving substitution of parties.

It is so ORDERED.



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Peter B. Bloch, Presiding Officer  
Administrative Judge

Rockville, Maryland

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of

ENERGY FUELS NUCLEAR, INC.

(White Mesa Uranium Mill  
Request for License Amendment)

Docket No.(s) 40-8681-MLA

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB NOTICE DATED 5/29/97 have been served upon the following persons by U.S. mail, first class, except as otherwise noted and in accordance with the requirements of 10 CFR Sec. 2.712.

Office of Commission Appellate  
Adjudication  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

Administrative Judge  
Charles N. Kelber  
Special Assistant  
Atomic Safety and Licensing Board  
Mail Stop - T-3 F23  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

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Sherwin E. Turk, Esq.  
Office of the General Counsel  
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Washington, DC 20555

Michelle R. Rehmann  
Environmental Manager  
Energy Fuels Nuclear, Inc.  
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1515 Arapahoe Street  
Denver, CO 80202

Administrative Judge  
Peter B. Bloch  
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Senior Attorney  
Atomic Safety and Licensing Board  
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Denver, CO 80202

Norman Begay  
White Mesa Ute Citizen  
Box 1138  
White Mesa, UT 84511


Docket No.(s)40-8681-MLA  
LB NOTICE DATED 5/29/97

G. Leah Dever, Asst. Manager  
for Environmental Management  
Department of Energy  
Nevada Operations Office  
P.O. Box 98518  
Las Vegas, NV 89193

Lula J. Katso  
Westwater Navajo Community  
c/o M. Hutchins  
264 West 100 North  
Blanding, UT 84511

Winston M. Mason  
Great Avikan House  
Native American Peoples Historical  
Foundation  
3 East Center Street, Box AVIKAN  
Blanding, UT 84511

Dated at Rockville, Md. this  
29 day of May 1997

  
Office of the Secretary of the Commission



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NUCLEAR REGULATORY COMMISSION

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1200 Seventeenth Street  
Denver, CO 80202

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Energy Fuels Nuclear, Inc.  
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White Mesa Ute Citizen  
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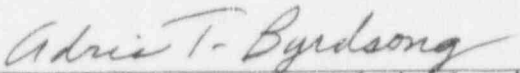
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Winston M. Mason  
Great Avikan House  
Native American Peoples Historical  
Foundation  
3 East Center Street, Box AVIKAN  
Blanding, UT 84511

Dated at Rockville, Md. this  
30 day of May 1997

  
Office of the Secretary of the Commission

\*Express Mail