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DOCKETED  
JUN 18, 1997

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

'97 JUN 18 P4:25

BEFORE THE PRESIDING OFFICER

OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

In the Matter of	)	
	)	
ENERGY FUELS NUCLEAR, INC.	)	Docket No. 40-8681-MLA
	)	
(White Mesa Uranium Mill;	)	
Alternate Feed Material)	)	

NRC STAFF'S MOTION FOR EXTENSION OF TIME

BACKGROUND

By Memorandum and Order dated May 27, 1997, LBP-97-10, 45 NRC \_\_ ("May 27 Order"), the Presiding Officer set June 9, 1997 as the date by which the Native American People's Historic Foundation, the Westwater Navajo Community, the U.S. Department of Energy ("DOE"), and Norman Begay (collectively, "Petitioners"), were to file supplements to their hearing requests. *See* May 27 Order, slip op. at 7. The Staff of the U.S. Nuclear Regulatory Commission ("Staff") was directed to file a response to the supplemental requests by June 23, 1997. *Id.*, at 8.

As of June 17, 1997, the Staff had not received any supplemental filings from the Petitioners, other than a letter from DOE dated June 6, 1997.<sup>1</sup> We are informed that the

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<sup>1</sup> As DOE indicated in its June 6 letter, it may be allowed to intervene in this proceeding if it meets the applicable requirements of 10 C.F.R. § 2.1205. In the Staff's initial response to the requests for hearing, filed May 21, 1997, the Staff suggested that  
(continued...)

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Office of the Secretary of the U.S. Nuclear Regulatory Commission likewise had not received any other filings from Petitioners as of June 17, 1997.

On June 17, the undersigned contacted the Presiding Officer, who apparently did receive Petitioner supplemental filings on or about June 9, 1997. The Presiding Officer stated he would forward copies of these filings to the Office of the Secretary for proper distribution. Copies of supplemental filings made by Norman Begay (two-page letter dated June 6, 1997), Lula Katso on behalf of Westwater Navajos (two-page letter dated June 7, 1997), and Winston Mason on behalf of the Native American People's Historic Foundation (15-page Supplement To Hearing Request dated June 9, 1997, together with 26 attachments), were obtained from the Office of the Secretary on June 18, 1997.

#### DISCUSSION

For good cause shown, time limits for filing responses in adjudicatory proceedings may be extended pursuant to 10 C.F.R. § 2.711(a). *See* 10 C.F.R. § 2.1203(d). In light of the foregoing failures to properly serve the Staff, the Staff moves for a nine-day extension of time, until July 2, 1997, in which to file its response to the supplemental

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<sup>1</sup>(...continued)

DOE could be allowed to participate in this proceeding as an interested governmental entity pursuant to 10 C.F.R. § 2.1211(b). This provision serves to foster cooperation between the NRC and State/local governments. Upon further consideration, the Staff has determined that this provision should not apply to DOE, a federal agency. The goal of achieving cooperation between the NRC and State/local governments would not be served by the participation of another federal agency. As an alternative to intervening, DOE could be given *amicus curiae* status--without any right to appeal an initial decision--so as to allow for any input DOE may be able to provide the Presiding Officer in reaching a decision. *Cf. Public Service Company of New Hampshire* (Seabrook Station, Units 1 and 2), ALAB-862, 25 NRC 144 (1987) (United States Senator allowed to participate as *amicus curiae* without appeal rights).

hearing requests. Such an extension of time will preserve the two-week period the Staff would have had to review the supplemental hearing requests if they had been properly served on June 9 pursuant to the May 27 Order.

CONCLUSION

Based on the above, the Staff asserts there is good cause for the Presiding Officer to grant an extension of time, until July 2, 1997, in which Staff may file its response to the supplemental hearing requests.<sup>2</sup>

Respectfully submitted,



John T. Hull  
Counsel for NRC Staff

Dated at Rockville, Maryland  
this 18th day of June 1997

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<sup>2</sup> On June 17 the undersigned called the law offices of Glenn Pressman and Rebecca Lorenz, who the Staff understood may be representing one or more of the Petitioners. Ms. Lorenz is out of the office until June 23. Mr. Pressman could not confirm that his firm represented any of the Petitioners, and was not familiar with the particulars of this case. Accordingly, he could neither consent nor object to Staff's request for an extension of time, and stated he would have Ms. Lorenz contact the undersigned upon her return.



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CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF'S MOTION FOR EXTENSION OF TIME" in the above-captioned proceeding have been served on the following by deposit into the United States mail or, as indicated by an asterisk, through deposit in the Nuclear Regulatory Commission's internal mail system this 18th day of June 1997:

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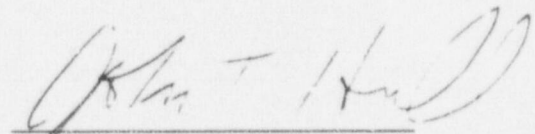
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