

# BLUE RIDGE ENVIRONMENTAL DEFENSE LEAGUE

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**May 17, 2001**

Rule Making and Adjudications Staff of the Office of the Secretary  
U.S. Nuclear Regulatory Commission  
One White Flint North  
11555 Rockville Pike  
Rockville, MD 20852

cc: NRC Office of the General Counsel  
cc: Donald J. Silverman, DCS Attorney.

RE: Request for Hearing Regarding Mixed Oxide (MOX) Fuel Fabrication Facility.

Dear Nuclear Regulatory Commission:

1. Pursuant to 10 CFR 2.1203 (a) and 10 CFR 2.1203 (e), the Blue Ridge Environmental Defense League (BREDL) hereby submits its written request for a hearing by the Nuclear Regulatory Commission pertaining to the Construction Authorization Request (CAR) for a Mixed Oxide Fuel Fabrication Facility (MFFF) at the U.S. Department of Energy's (DOE) Savannah River Site (SRS) in South Carolina. The parties petitioning for participation in the hearing are Donald J. Moniak as an individual, and BREDL as an organization with affected members.

2. The CAR was submitted to NRC by Duke Cogema Stone and Webster (DCS) on February 28, 2001.<sup>1</sup> The NRC published its *Notice of Acceptance of Docketing of the Application, and Notice of Opportunity for a Hearing, on an Application for Authority to Construct a Mixed Oxide Fuel Fabrication Facility* in Volume 66, No. 75, Page 19994 of the *Federal Register* on Wednesday, April 18, 2001. DCS also submitted, under separate cover but as part of the CAR, its "proprietary" financial statement for fiscal year 1999<sup>2</sup>, and as such, BREDL considers this document to be a part of the CAR.

3. Prior to accepting the CAR, the NRC accepted two other documents considered pertinent to the CAR and the licensing process by both the NRC and by DCS. BREDL concurs with the NRC

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<sup>1</sup> February 28, 2001 Letter (DCS-NRC-000038) and attachments from Robert H. Ihde, President & CEO of DCS, to William F. Kane, Director, Office of Nuclear Material Safety and Safeguards.

<sup>2</sup> February 28, 2001 Letter (DCS-NRC-000037) and attachments from Robert H. Ihde, President & CEO of DCS, to William F. Kane, Director, Office of Nuclear Material Safety and Safeguards.

and DCS that these documents--the Environmental Report and the Quality Assurance Plan--are pertinent to the licensing process and expects that a hearing on the CAR be inclusive of these documents.

a. On January 29, 2001, the NRC accepted the *Environmental Report* (ER) for the MFFF that DCS had submitted on December 20, 2000.<sup>3</sup>

b. On November October 6, 2000, the NRC accepted for review, for “design purposes only,” the MFFF Quality Assurance Plan (QAP) submitted by DCS to NRC on June 22, 2000.<sup>4</sup> The QAP was subsequently updated in response to NRC comments on January 24, 2001.

c. In its February 28, 2001 letter to NRC, DCS wrote: “*This construction authorization request (CAR), the environmental report of reference 1 and the MOX Quality Assurance Plan of References 2 and 3 are submitted for the Nuclear Regulatory Commission’s approval of construction of the principal structures, systems, and components (SSC’s) of the MOX Fuel Fabrication Facility pursuant to 10 CFR 70.23 (b).*”<sup>5</sup>

d. The NRC wrote in Federal Register notice 66 FR 19994-19996 that it is “*conducting a detailed review of the CAR, the December 20, 2000 Environmental Report, and the January 2001 Quality Assurance Plan. The results of the NRC’s review of these DCS filings will be documented in a safety evaluation report and an environmental impact statement.*”

e. The NRC wrote in Federal Register notice 66 FR 19994-19996 that “*In order to approve of the CAR, the NRC must find that the design bases of the proposed MOX fuel fabrication facility’s principal structures, systems, and components, together with the DCS quality assurance plan, ‘provide reasonable assurance of protection against natural phenomena and the consequences of potential accidents.’*”

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<sup>3</sup> January 29, 2001 Letter from Charlotte Abrams, Chief, Environmental and Low-Level Waste Section, Environmental and Performance Assessment Branch, Division of Waste Management, Office of Nuclear Material Safety, Nuclear Regulatory Commission; to Robert H. Ihde, Duke Cogema Stone and Webster.

<sup>4</sup> October 6, 2000 Letter from Andrew Persinko, Project Manager, Enrichment Section, Special Projects Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards, Nuclear Regulatory Commission; to Peter Hastings, Licensing Manager, Duke Cogema Stone and Webster.

<sup>5</sup> February 28, 2001 Letter (DCS-NRC-000038) from Robert H. Ihde, President & CEO of DCS, to William F. Kane, Director, Office of Nuclear Material Safety and Safeguards.

4. In addition to the CAR, the ER, and the QAP, hereafter referred to as “CAR and associated documents,” BREDL considers the following documents to be essential to the licensing process and requests they be recognized as such for the Hearing:

a. The 1994 National Academy of Sciences (NAS) report, *Management and Disposition of Excess Weapons Plutonium*, in which the NAS characterized the threat of nuclear weapons or nuclear weapon fissile materials falling into the hands of terrorists or non-nuclear nations through theft or diversion as a “clear and present danger.” The NAS report has formed the framework for DOE’s plutonium disposition program.

b. The DOE’s November 1996 *Storage and Disposition of Weapons-Usable Fissile Materials Final Programmatic Environmental Impact Statement (S&D PEIS)*, and the subsequent January 1997 DOE *Record of Decision (ROD)* for the S&D PEIS, in which DOE decided to:

i. pursue a strategy that would allow “for both the immobilization of some (and potentially all) of the surplus plutonium and use of some of the surplus plutonium as mixed oxide (MOX) fuel in existing, domestic, commercial reactors.” DOE considered 8 metric tonnes of plutonium to be unsuitable for MOX fuel “without extensive and costly purification.”

ii. “reduce the number of sites where plutonium is stored by upgrading and expanding existing and planned facilities at the Pantex Plant in Texas and the Savannah River Site (SRS) in South Carolina. After certain conditions are met, most plutonium now stored at the Rocky Flats Environmental Technology Site in Colorado will be moved to Pantex and SRS.”<sup>6</sup>

iii. The DOE has failed to implement this ROD. Plutonium pits stored at Rocky Flats were moved to Pantex from 1997 to 1999 even though improved storage conditions have never been met; DOE cancelled the upgrade of the long-term plutonium storage facility--the Actinide Packaging and Storage Facility--at SRS for Rocky Flats plutonium while establishing only an “interim” storage option at the modified “K” Reactor; and most recently cancelled, or “suspended,” the essential immobilization program. The net result of DOE abandoning decisions has been to leave inadequate plutonium pit storage at Pantex, no long-term plutonium storage plan at SRS, and no clear disposition path for 5-8 tonnes of plutonium. BREDL contends that DOE’s failure to implement this decision requires a new Environmental Impact Statement for storage and disposition of excess plutonium.

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<sup>6</sup> DOE OFMD Strategic Plan. 1997.

c. The May 1998 DOE Request for Proposals (RFP) for *MOX Fuel Fabrication and Irradiation services* (Solicitation Number DE-RP0298CH10888 and subsequent amendments) in which DOE requested consortiums of fuel fabricators, engineering firms, and nuclear reactor operators to submit proposals for “*design, licensing, construction, operation, and eventually decontamination and decommissioning of a MOX [fuel fabrication] facility as well as irradiation of the MOX fuel in existing domestic, commercial reactors should the decision be made by DOE in the SPD EIS ROD to go forward with the MOX program.*” BREDL contends that this RFP biased the plutonium disposition decision towards MOX by issuing the RFP.

d. The July 1998 *Draft Surplus Plutonium Disposition Environmental Impact Statement* (Draft SPDEIS) which analyzed sites for plutonium disposition activities and plutonium disposition technologies to support the strategy chosen in the S&D PEIS ROD. In regard to this document, BREDL contends that:

i. The Department of Energy knowingly violated the National Environmental Policy Act (NEPA) by publishing false, misleading and inaccurate information in this document. Most notable was DOE’s false assertion that plutonium polishing, a.k.a. “aqueous polishing” or “aqueous plutonium processing”, was a “contingency” for converting weapons plutonium from existing forms to forms suitable for use as plutonium MOX nuclear reactor fuel. When it failed to correctly identify plutonium polishing as the “preferred alternative” for plutonium conversion to MOX, DOE violated NEPA requirements to conduct an accurate analysis of all reasonable alternatives and the statutorily-required “no-action” alternative.

ii. DOE’s NEPA violations biased the plutonium disposition decision-making process in favor of Mixed Oxide Fuel option.

e. The MOX Fuel Fabrication Facility *Design Only Conceptual Design Report* of 1998, that DOE used to base its cost estimates for the MFFF in budget requests to the Congress. As with the Draft SPDEIS, DOE knowingly allowed the DOCDR to be completed without provision for “plutonium polishing” or “aqueous plutonium processing,” and thus misled and made false and incomplete claims to the Congress of the United States.

f. The March 22, 1999 Contract between DOE and DCS to for *Mixed Oxide (MOX) Fuel Fabrication and Reactor Irradiation Services*, in which DOE procured from DCS MOX Fuel services, including (in the \$116,613,8631.00 “base contract” alone):

- Design and licensing of the MFFF, including development of a Proposed Work Task Agreement (WTA) between DCS and the DOE Host Site Contractor, development of a MFFF Quality Assurance Plan, preparation of an initial MFFF Deactivation Plan, and preparation of MOX Fuel safeguards and security plans;
- Development and provision of a MFFF Long Lead Time Procurement Plan;
- Development and implementation of a MOX fuel qualification plan, including recommendation for a DOE host site for fabrication of MOX Test/Demonstration fuel, and providing a certified package for shipment of MOX fuel assemblies from the test/demonstration facility;
- Development and implementation of an irradiation services program to utilize commercial light water nuclear reactors to irradiate MOX fuel, including reactor and site facility modification design, preparing reactor licensing plans for mission reactors and submit license amendments requests for irradiating MOX fuel, and test/demonstration fuel irradiation.

BREDL contends that this contract and all subsequent contract amendments/modifications (The Contract) is an essential guiding document for the licensing process and a hearing for the following reasons:

i. The Contract clearly illustrates the fact that the proposed MOX fuel program for plutonium disposition is fully funded by the federal government and is not a commercial endeavor.

ii. The ability of DCS to comply with NRC licensing requirements is contingent upon adequate financing from Congress based on contract negotiations and modifications. For example, DOE has committed to paying DCS only \$10 million for MFFF deactivation, and The Contract states that “this \$10 million payment represents DOE’s total liability for the deactivation of the MOX Fuel Fabrication Facility.”<sup>7</sup>

iii. Procurement of MOX Fuel services from DCS prior to an official decision to build an MFFF and irradiate MOX fuel is a clear NEPA violation that further biased the decision towards MOX.

iv. DCS is arguably in default of The Contract because of the lack of a contract modification since the alleged withdrawal of Virginia Electric and Power Company from its role

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<sup>7</sup> Contract No. DE-AC02-99CH10888. Page H-24. Section H.15(a).

as in providing irradiation services at its North Anna Unit 1 and North Anna Unit 2 nuclear reactors. The existing contract states:

*“The Contractor expressly warrants that Duke Power Company and Virginia Electric and Power Company shall, subject to regulatory approval, provide the irradiation services...”*  
(Section H-14, Page H-23)

*“The Contractor may only propose to replace a mission reactor if: (1) the reactor has been shutdown for economic reasons; or (2) the NRC or the utility company has required the reactor to be shut down for safety reasons and, in either case, the shutdown will preclude accomplishment of the plutonium disposition mission schedule.”* , (Section H-14, Page H-23)

*“Failure of the Contractor to provide an approved replacement mission reactor sufficient to accomplish the plutonium disposition mission schedule shall be considered a breach of this contract.”* (Section H-14, Page H-24)

v. The MFFF is being designed and licensed to fabricate up to 34 metric tonnes of plutonium MOX fuel, despite the fact that DCS only has the capability, as stated in its Environmental Report, to irradiate 25.5 metric tonnes of MOX fuel. DCS has submitted its opinion to NRC that irradiation of 34 metric tonnes of MOX fuel requires additional nuclear reactors.<sup>8</sup> Even though DCS is contractually obligated to the U.S. Government to irradiate MOX fuel in Virginia Power and Electric nuclear reactors, it declined to identify this to the NRC in the CAR and associated documents.

vi. DCS is in potential breach of contract for violating its contractual obligation to package radioactive waste prior to DOE acceptance of such waste. In Table H.6, Page H-16, “List of DOE Host Site Services,” of The Contract, the only reference to radioactive and other wastes states provides only “transportation and disposal of low-level, hazardous, non-hazardous, mixed, and TRU-waste” at the host site; and explicitly states that DCS “is responsible for packaging waste.” In violation of this contract, DCS has proposed transferring up to 300,000 gallons of liquid radioactive waste per year to the host site, SRS, without any packaging or treatment, and failed to submit a waste management plan to NRC or DOE.

g. The DOE’s *Final Surplus Plutonium Disposition Environmental Impact Statement* (Final SPDEIS), associated source documents, and the January 2000 Record of Decision in

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<sup>8</sup> DCS Environmental Review. December 20, 2000. Appendix E. Page E-6.

which DOE described the “need” for MOX Fuel Fabrication and Irradiation, Plutonium Immobilization Plant, and a Plutonium Pit Disassembly and Conversion Plant at SRS. BREDL contends this document is invalid because DOE either knowingly omitted accurate information about liquid radioactive waste generation at the MFFF; or DCS withheld this information from DOE in its response to DOE’s RFQ. In either case, DOE never conducted an adequate and accurate assessment contrasting the immense differences in environmental impacts and financial costs between the MOX and Immobilization options.

h. All agreements and documents relating to joint cooperative plutonium work between the United States and the Russian Federation, the United States and France, and the United States and Germany. The plutonium disposition program is promulgated under the explicit assumption that all work is to proceed in parallel with Russia.

i. The MOX Fuel Qualification Plan submitted by Framatome Cogema Fuels on behalf of DCS to the NRC on July 14, 2000; and finalized on January 18, 2000 by DCS.

5. According to the Federal Register notice, this request for hearing must comply with 10 CFR 2 Subpart L. Items 6 and 7 describe in detail Donald J. Moniak’s and BREDL’s compliance with this determination.

**6. The NRC should grant Donald J. Moniak<sup>9</sup>, a BREDL member and employee a hearing because he has a substantial “interest in the proceeding,” as required in 10 CFR 2.1205(e)(1)).** This interest is based on the facts that Donald J. Moniak has property, financial, health, and environmental interests in the proposed MFFF, and therefore should be awarded standing by NRC because:

a. He owns and lives in residential property in Aiken County, South Carolina that is approximately 19.3 miles from the proposed MFFF; and 1.3 to 4.3 miles from probable MOX Fuel shipping routes.<sup>10</sup>

b. He grows vegetables for consumption at the cited property.

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<sup>9</sup> Please note that Donald J. Moniak is petitioning for standing as an individual in Item 8, and also as an authorized representative of BREDL is petitioning for standing for BREDL as an organization in Item 9.

<sup>10</sup> Donald J. Moniak resides at 3401 Seneca Avenue, Aiken SC 29801, in Aiken County, SC just outside of Aiken City limits. The nearest transportation routes are State Highway 19 and Interstate 20, and both have been used for shipments of radioactive materials from SRS to other sites.

c. His water supply is from the City of Aiken, which provides water to City residents and outlying Aiken County residents from two major sources:

i. Approximately half from deep wells approximately 250-300 feet deep on the south side of the City of Aiken, approximately 15 to 16 miles from the proposed MFFF.

ii. Approximately half from Shaw Creek, which at the City Water Supply Treatment plant is approximately 22.0 miles from the proposed MFFF.

d. He participates in recreational activities including boating, fishing, hunting, canoeing, birdwatching, camping, wildlife observation, and study of the natural environment in the Central Savannah River Watershed, a watershed already severely impacted by past and present SRS activities and other Augusta area industrial activities.

e. In regard to items 8.a. through 8.d.(see Figure 1), he will be affected by an MFFF because of the reasons cited in 8.j. as well as the fact that the cumulative impact of another high consequence plutonium processing facility at SRS substantially increases the risk of a major accident that could contaminate this property, lower area property values, degrade water supplies, impede and even prevent his ability to freely recreate in the area, and restrict his opportunities to consume fish and game species from the area.

f. He owns property in Randall County, Texas that is approximately 30.5 miles from “Zone 4” of the Pantex Nuclear Weapons Plant where 12,500 plutonium pits containing an estimated 35-40 metric tonnes of weapons-grade plutonium is presently stored in substandard conditions (see Figure 2). While up to 12 MT of plutonium in up to 4,000 plutonium pits is scheduled to remain at Pantex indefinitely, reduction of the excess stockpile of pit plutonium-- and therefore risk reduction in the area of financial interest--is best achieved through the simpler, less expensive route of plutonium immobilization.

g. As an American citizen and taxpayer he has ownership interest in the Federally-owned lands upon which the MFFF is proposed to be constructed, and is therefore affected by further radioactive or chemical contamination of these publicly owned lands as well as impacts on threatened and endangered wildlife and plant species.

h. As an American citizen and taxpayer he has financial and civic interest in sound government, and reasonable expectations that the Federal Government will not waste tax dollars on unnecessary and dangerous facilities when better alternatives exist. Item 4 of this request

outlines reasons that the MFFF proposal violates principles of sound government and federal fiscal management. The MFFF is an example of a multi-billion dollar government expenditure that is unnecessary and dangerous.

i. As an American citizen and taxpayer, he has reasonable expectations that federal agencies such as the DOE will obey the laws of the nation be held accountable for violations of federal laws and making false and incomplete claims to his elected representatives in Congress, as described in Item 4 of this request.

j. As a resident of the affected area and a taxpayer, he has a civic, moral, ethical, and financial interest in protecting federally owned facilities from unnecessary harm and protecting federal and other public properties from harm. As such, the NRC cannot provide reasonable assurance of protection against natural phenomenon and the consequences of potential accidents at the MFFF or during transportation of MOX Fuel from the MFFF to irradiation facilities for numerous reasons that will be further defined as contentions for the hearing, but do include the following reasons:

i. The CAR states that the “possession limits” at the MFFF for plutonium with up to 95% weight percent plutonium 239 will be 9,000 kilograms; and possession limits for Americium will be 6 kilograms. Because the history of plutonium processing, both domestically and internationally, involves a lack of protection against natural phenomena and the consequences of potential accidents, it is inevitable that environmental contamination will occur when 9,000 kilograms of material are at risk.

ii. The “design bases” for the MFFF will inevitably change due to changing requirements in the plutonium disposition program. As cited in Item 6.g of this request for hearing, the DOE has failed to honor most of its commitments made in the past five years for safe, secure storage of surplus plutonium storage, stabilization of plutonium that does not meet long-term storage standards, and immobilization of the most difficult to process forms of plutonium.

iii. The requirements of the MFFF are inadequately defined because DCS, in documents submitted to NRC, assumes that all plutonium oxide feedstock will derive from the Plutonium Pit Disassembly and Conversion Facility, even though approximately 4.0 MT of material scheduled for MOX under the current U.S./Russian agreement is not currently in plutonium pit form.

iv. The lack of a disposition path for 8-17 MT of plutonium originally in the Plutonium Immobilization disposition path is likely to provoke major design changes at the MFFF to facilitate processing of these more difficult, impure materials in the MFFF.

v. The MFFF design is in conflict with the DOE's Technical Standard for the Long-Term Stabilization and Storage of Plutonium Oxides and Metal, known as the 3013 Standard. DOE's standard for long-term plutonium stabilization and storage requires "high-firing" of plutonium at 950 degrees Celcius to remove moisture and corrosive impurities. However, the "plutonium polishing" step is far more difficult with high-fired plutonium oxide powder than with plutonium oxide that has not been high-fired.

vi. The proposed location of the MFFF in F-Area at SRS was not selected through the NEPA process, and has been criticized by one SRS veteran scientist and MOX Fuel supporter:

"From my knowledge of that area, that would not have been the one I would have picked. It's probably one that hastens whatever impacts that may be from this facility to Upper Three Runs Creek, and I think that ought to be minimized."<sup>11</sup>

vii. There are substantial risks of plutonium contamination from accidental explosions, leaks, nuclear criticality, fires, earthquakes, tornadoes, and that would result in plutonium and americium contamination that are not found in the immobilization alternative and the no action alternative.

viii. DCS has stated its intent to avoid preparing an emergency management plan for the MOX facility, which reflects a cavalier and lax attitude towards safety.

ix. DCS has proposed using ventilation systems involving HEPA filters in spite of the grave difficulties with these systems throughout the DOE nuclear weapons complex.

k. As an American citizen and taxpayer and a resident of the planet Earth, he has a profound civic, moral, ethical, financial, and property interest in the reduction of nuclear materials for weapons of mass destruction, in this case plutonium. The sole justification for the MFFF is to reduce national and international nuclear proliferation and security threats posed by the continued storage of highly concentrated, weapons-usable forms of plutonium. The MFFF and larger MOX fuel option for plutonium disposition increases nuclear proliferation and security risks and threats as well as environmental harm by:

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<sup>11</sup> Testimony of Mr. Lee Poe at the NRC MOX Fuel EIS Scoping Hearing, North Augusta, SC, April 17, 2001.

i. Encouraging global commerce of plutonium as fuel, even though all forms of plutonium are useable in nuclear weapons and it is technically easier to make a weapon of mass destruction from “reactor-grade” plutonium.

ii. Encouraging plutonium reprocessing and subsequent dumping of radioactive wastes into bodies of water such as the Irish Sea and the North Atlantic.

iii. Discourages and even prevents implementation of simpler, less expensive, and more realistic efforts to “dispose” of weapons plutonium by meeting the spent fuel standard.

iv. Adds unnecessary costs to “front-end” processes such as the plutonium pit disassembly and conversion facility (PDCF) by requiring higher quality plutonium oxide feedstock than the immobilization option.

v. Encourages the development of a commercial plutonium fuel physical and regulatory infrastructure in the United States and Russia. Thus, it creates the potential for export of weapons-usable plutonium in the form of plutonium MOX fuel to nations on the U.S. Export Control list.

7. The NRC should grant BREDL standing because as an organization it has substantial “interest in the proceeding,” as required in 10 CFR 2 Subpart L. BREDL should be granted standing because BREDL as an organization has significantly influenced, and will continue to significantly influence, the plutonium storage and disposition debate;<sup>12</sup> and because BREDL members will be affected by construction and operation of the MFFF, the direct impacts of transportation of MOX fuel on public highways in South Carolina, North Carolina, and possibly Virginia, and irradiation of MOX fuel in Duke Power Company NPP’s cited in Item 4. this hearing request. BREDL members have health, financial, property, civic, ethical, and moral interests in the MFFF and larger MOX fuel program for the following reasons:

a. BREDL members drive on, live along, and recreate near transport routes that will be used for shipping plutonium fuel. The shipping of plutonium fuel from SRS to MOX fuel irradiation facilities will affect members by lowering property values and/or impacting public health because for the following reasons:

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<sup>12</sup> Examples of BREDL interest and influence can be found at <http://www.bredl.org/sapc/index.htm> and in the NRC Transcripts of the April 17, 2001; April 18, 2001 and May 8, 2001 EIS Scoping Meetings for the Proposed MOX Facility <http://www.nrc.gov/NRC/NMSS/MOX/meetingsummary.html>

i. The MOX fuel option substantially increases DOE radioactive material shipments in the area between SRS and irradiation facilities, and thus poses an unnecessary risk of harmful exposure to doses of ionizing radiation during incident free transportation operations as well as unnecessary risks of being involved in, or in close proximity to, a major accident resulting in a nuclear criticality event and/or substantial release of plutonium aerosols to our environment as well as an attempted armed attack on the involving weapons .

ii. making already crowded highways and roadways more dangerous by adding unnecessary convoys of truck traffic.

iii. creating great public uncertainty and anxiety over the prospect of transportation of MOX Fuel assemblies within yet-uncertified, first-of-its-kind shipping containers that are within unmarked, government-owned Safe Secure Transports (SSTs) or Safe Guarded Transports (SGTs).

b. BREDL members live, work, and recreate within 50 miles of the proposed MOX fuel irradiation facilities owned by Duke Power Company--Catawba Nuclear Power Plant (NPP) which includes two nuclear reactors called Catawba 1 and Catawba 2; and McGuire Nuclear Power Plant (NPP) which includes two nuclear reactors called McGuire 1 and McGuire 2. In addition, BREDL members live within 50 miles of another possible MOX fuel irradiation facility, Virginia Power Company's North Anna Nuclear Power Plant (NPP) which includes two nuclear reactors North Anna 1 and 2. Although the CAR and associated documents does not list North Anna as an irradiation facility, the facility remains in the existing contract between DCS and DOE. The MOX option will effect BREDL members in these areas for the following reasons:

i . The unnecessary and higher risks of a major nuclear accident that would render large areas uninhabitable or in a best-case scenario greatly lower property values and cause great social upheaval. In the case of a severe accident involving plutonium MOX fuel instead of LEU fuel, people will be at a higher risk of developing cancer, chronic health problems, or other maladies because of plutonium aerosol contamination.

ii. Because the irradiation facilities will store irradiated MOX fuel with substantially higher plutonium content, the social stigma of living near de-facto plutonium storage facilities will affect psychological well-being, possibly lower property values, and possibly provoke proposals for more dangerous nuclear developments.

iii. Charlotte, North Carolina is a major financial, business, transportation, and medical hub for much of Western North Carolina. As such, BREDL members are dependent upon the services that are either only offered in Charlotte or are far superior in Charlotte for personal well being and financial security. The irradiation of 25.5 metric tonnes of weapons-grade plutonium in MOX fuel is a first-of-its-kind nuclear project that places the Charlotte, NC metropolitan area at increased risk of radioactive contamination that would result in a denial of essential services to BREDL members.

c. As American citizens and taxpayers, BREDL members have ownership interest in the Federally-owned lands upon which the MFFF is proposed to be constructed, and is therefore affected by further radioactive or chemical contamination of these publicly owned lands as well as impacts on threatened and endangered wildlife and plant species.

d. BREDL members living within the 50 mile radius of the proposed MFFF have the same interests and will be affected in similar ways to the items cited in 6.a. through 6.d of this request.

e. As American citizens and taxpayers, BREDL members have financial and civic interest in a sound, honest federal government, as well as reasonable expectations that the Federal Government will not waste tax dollars on unnecessary and dangerous facilities when better alternatives exist. Item 4 of this request outlines reasons that the MFFF proposal violates principles of sound government and federal fiscal management. The MFFF is an example of a multi-billion dollar government expenditure that is unnecessary and dangerous.

f. As American citizens and taxpayers, BREDL members have reasonable expectations that federal agencies such as the DOE will obey the laws of the nation be held accountable for violations of federal laws and making false and incomplete claims to his elected representatives in Congress, as described in Item 4 of this request.

g. As American citizens and taxpayers, BREDL members have a civic, moral, ethical, and financial interest in protecting federally owned facilities from unnecessary harm and protecting federal and other public properties from harm. As such, the NRC cannot provide reasonable assurance of protection against natural phenomenon and the consequences of potential accidents at the MFFF, during transportation of MOX Fuel from the MFFF to irradiation facilities, or during irradiation of MOX fuel. In addition to the reasons cited in Item 6.j. of this request, BREDL members also have a financial interest in the physical assets of the

DOE's Transportation Safeguards Division. The use of SST's and SGT's for an unnecessary program is not only an example of government waste, but also poses threats to the viability of physical assets that also provide an essential national security function.

h. As American citizens and taxpayers and residents of the planet Earth, BREDL members have a profound civic, moral, ethical, financial, and property interest in the reduction of nuclear materials for weapons of mass destruction, in this case plutonium, in order to lower the risk of a nuclear weapon of mass destruction being used. The sole justification for the MFFF is to reduce national and international nuclear proliferation and security threats posed by the continued storage of highly concentrated, weapons-usable forms of plutonium. The MFFF and larger MOX fuel option for plutonium disposition increases nuclear proliferation and security risks and threats as well as environmental harm for the reasons cited in Item 6.k.

8. Both parties that are requesting a hearing and standing before the NRC, Donald J. Moniak and BREDL, are in compliance with Federal Register notice FR 66 19994-1996 and 10 CFR 2 Subpart L:

a. A copy of this request is being mailed by May 18, 2001 to the NRC's Rule Making and Adjudications Staff of the Office of the Secretary, the NRC Office of General Counsel, and to DCS attorney, as required by 10 CFR 2.1203 (a) and (e), 10 CFR 2.712, and 10 CFR 2.1205 (f).

b. A copy of this request is being faxed on May 17, 2001 to the NRC's Rule Making and Adjudications Staff of the Office of the Secretary as allowed under 10 CFR 2.712; and is also being faxed as a convenience to the Office of General Counsel.

This completes the formal request for a hearing.

Sincerely,

Donald J. Moniak  
Private Citizen, and  
Community Organizer and Savannah River Site Project Coordinator  
Blue Ridge Environmental Defense League  
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803-644-6953

Organized in 1984 and serving communities in North Carolina, South Carolina, Virginia, and Tennessee

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<http://www.bredl.org>