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March 18, 2004

Chief, Rules and Directives Branch  
Mail Stop T6-D59  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

ATTN: Melanie Wong (301) 415-5398

RE: Docket No. 70-3103  
EIS Scoping Comments

Dear People,

Southwest Research and Information Center (SRIC) is a private nonprofit, educational organization based in Albuquerque, New Mexico, that has been involved in issues related to uranium development in New Mexico for decades. As a result of its more than 30 years of work, including analyzing and experiencing the enormous and continuing extremely negative impacts of uranium mining and milling on people's health and the water, soil, air, and spiritual environment in New Mexico, SRIC has great interest in the proposed LES Gas Centrifuge Uranium Enrichment Facility. SRIC submits these scoping comments for NRC's environmental impact statement (EIS) of the LES plant.

SRIC agrees that the EIS must consider all of the alternatives and environmental impact areas included in the *Federal Register* notice of February 4, 2004. 69 FR 5375. SRIC's scoping comments include more specific details that must be considered in the EIS, in addition to those alternatives and impact areas listed in the NRC notice.

Alternatives

The No-action and Proposed action alternatives must be included.

*The alternative of storage of up to 15,727 Uranium Byproduct Cylinders (UBCs) beyond the operational lifetime of the facility must be fully analyzed.*

This alternative, which is not included in the LES Environmental Report, must be included in the EIS because it is a reasonable alternative since LES has made no other arrangements for the materials and wastes contained in those UBCs. Further, no existing disposal option for the wastes exists.

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This alternative is of great concern to the State of New Mexico and to its people. For example, New Mexico's Governor Bill Richardson has stated that he is concerned that LES will not remove all of the waste from the State of New Mexico, as LES has promised. (Attachment 1, *Santa Fe New Mexican*, February 18, 2004.) The *Albuquerque Journal*, the largest circulation newspaper in New Mexico, has twice editorialized about its concerns about the waste not being removed from the state. (Attachment 2, November 25, 2003; Attachment 3, January 9, 2004.)

#### The Lack of Need for the LES Plant

The EIS must fully analyze the need for the plant. SRIC believes that in light of the existing uranium enrichment capacity, which is meeting the domestic U.S. nuclear power plant requirements, that the LES plant is not needed. The LES Environmental Report makes no showing that existing worldwide enrichment capacity -- some of which is currently used for U.S. domestic requirements -- will become unavailable. The EIS must analyze the domestic and worldwide enrichment capacity possibilities of meeting the U.S. domestic enrichment requirements. Indeed, the possibility of LES's European owners expanding their existing capacity to meet the U.S. domestic demand must be analyzed. The EIS must also analyze U.S. and Russian surplus highly enriched uranium being downblended and added to the U.S. domestic supply. Also, the use of Mixed Oxide (MOX) fuel in commercial power plants as additional supply must be analyzed, as the NRC is currently considering licensing such a MOX plant.

Another indication that the plant is not needed is that the facility is not economical in that it can only operate if it has the \$1.8 billion Industrial Revenue Bonds (IRBs). The fact that LES itself admits that the plant is not economic and would not be built without the IRBs must be included in the EIS.

#### Waste issues

In addition to the analysis of the additional alternative, already noted, several other waste issues must be addressed in the EIS.

The LES Environmental Report includes two disposal options ("plausible strategies") for UBCs. Page 4.13-8. The "preferred" option is to have a private conversion facility process the depleted UF6 and to then dispose of the converted waste in "an exhausted uranium mine (the Cotter Mines in Colorado)." *Id.* However, no such privately financed conversion facility exists and no uranium mine is licensed to carry out such disposal. The EIS must analyze the impacts of such facilities, including, among other issues, the financing that would be required for a conversion facility, the location of such a facility, the impacts of such a facility, and the decontamination and decommissioning of such a facility. As for the disposal site, what "exhausted uranium mines" could be used, the financial requirements for such a disposal facility, the environmental impacts of such a facility must be analyzed in the EIS.

It should be noted that although the option of using "the Cotter Mines in Colorado" is included in the LES Environmental Report, such an option was not discussed with the owner of the mine before LES submitted its license application. Attachment 4.

Regarding the second "plausible" option of having the UBCs be taken by the U.S. Department of Energy (DOE), there are several "implausible" aspects of such an option. First, the UF6 conversion facilities do not exist at Paducah, Kentucky and Portsmouth, Ohio. Second, even if the plants are built and operate, they will have decades of work to process the existing thousands of tons of on-site wastes, meaning that they would not be able to process LES waste during the lifetime of the LES plant, thereby leaving the waste in New Mexico. Third, Ohio Governor Bob Taft informed the Commission by letter of January 15, 2004 that acceptance of the LES waste in Ohio "would not be automatic or inevitable." Attachment 5.

SRIC believes that the two "plausible" options must be fully analyzed in the EIS, much more extensively than the cursory, inadequate treatment they receive in the LES Environmental Report. Further, as previously noted, given the "implausible" nature of both of those options, the EIS must fully analyze the alternative that the depleted UF6 will remain at the LES plant indefinitely, far beyond the operational lifetime of the plant.

Given that likelihood of indefinite storage of the waste at the LES plant, the EIS must analyze the impacts of the LES site being a perpetual nuclear dump, including the public perception that such a nuclear dump site would create and how that perception would impact other future economic development options for the area.

#### Financial issues

The EIS must analyze the costs of indefinite waste storage at the LES plant, and the financial assurance requirements to fully care for such wastes. The LES Environmental Report does not include such an analysis. Such an analysis also will result in changed, and increased, financial assurance requirements that must be provided by LES.

#### Water issues

The LES Environmental Report states that the plant's average water consumption will be 63,423 gallons per day. Page 2.1-17. The EIS must analyze the total water use, not just consumption, as the total amount of water used will not be available for other domestic uses of the communities of Hobbs and Eunice. Since the LES Environmental Report does not specify whether the plant's water supply would come from Eunice or from Hobbs, the EIS must analyze separately the impacts if all water was supplied by Eunice or if all water was supplied by Hobbs. The EIS analysis must include the impacts of peak water use, which is said to be 544,320 gallons per day (9 times the average use). LES Environmental Report, Page 2.1-19. The EIS must analyze the amounts of water use based on the plant design, which is presumably higher than that peak amount, though the design capacity does not appear to be included in the LES Environmental Report. The EIS must consider the impacts of that amount of design capacity water use separately on the domestic users if the total water use would be supplied by Eunice and if the total water use would be supplied by Hobbs. The EIS must also analyze the impacts on both LES and the communities of Hobbs and Eunice, if the water design capacity of the LES plant cannot be met at times during the plant's operations. The EIS must analyze various water-related questions, including:

\* What would be the total impacts (including safety issues) on the LES plant if insufficient water was available to meet plant operations or emergency needs (including fire).

\* What requirements are in place to ensure that adequate water supply will be available throughout the lifetime of the LES plant? That analysis must include projected lack of water availability if future drought conditions occur.

\* What would be the impacts on the communities of Hobbs and Eunice if they are required to provide water to LES even if that results in water supply shortfall for other municipal users?

Regarding water discharges, the EIS must analyze all possible water discharge points and their capacities. Those capacities are apparently not included in the LES Environmental Report.

#### Air emission issues

The EIS must fully examine the effects of the continuous releases of small amounts of uranium into the air. It must also fully examine the effects of possible large releases of uranium and other materials into the air in the case of a significant accident. Those issues do not seem to be identified in the NRC notice of February 4.

#### Transportation issues

While the NRC notice indicates that the scope will include "modes, routes, quantities and risk measures," SRIC points out that a wide variety of routes must be considered, since the enriched uranium could be shipped to customers worldwide as well as to potential domestic users. Moreover, since LES assumes that all of the almost 16,000 UBCs will be shipped from the plant, the impacts of such shipments must be analyzed. The special nature of the many two-line highways in southeastern New Mexico and west Texas must be analyzed, along with the risks of accidents involving highly flammable and oilfield and natural gas related materials that are transported on those same highways.

#### Other issues

The LES Environmental Report does not seem to locate existing nearby oil and gas facilities, nor identify potential resources that could be developed during the lifetime of the LES plant. The EIS must include such an analysis.

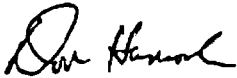
Recently, two major accidents have occurred that must be considered in the EIS analysis. One was the major natural gas pipeline explosion near Carlsbad that killed several people. Within the last week, a blowout of an oil rig in Carlsbad required evacuation of hundreds of people from their residences and businesses. The EIS must analyze the effects of such accidents if they occurred near the LES plant and include a discussion of mitigation measures to prevent similar accidents.

Issues of emergency response capabilities are not specifically included in the NRC notice. The adequacy of emergency response and medical care facilities, and the fact that such facilities are in Hobbs, 20 miles away must be fully considered in the EIS.

Another issue that must be considered is the national and international impact of a centrifuge uranium enrichment plant, given the worldwide interest in the dangers of nuclear proliferation for such facilities. International attention focused on Pakistan, Iran, North Korea, Libya, and other countries shows that the possibility and risks of such proliferation must be analyzed, along with mitigation measures. Issues related to security and the potential for espionage or sabotage must be fully analyzed in a classified appendix to the EIS and sufficient analysis must be included in the EIS to facilitate public understanding and analysis of those issues.

Thank you for your inclusion of and full consideration of all of these issues in the EIS.

Sincerely,



Don Hancock



# Santa Fe New Mexican.com

The Online Edition of THE SANTA FE NEW MEXICAN

Wednesday, February 10, 2004

## Governor Wavers on Uranium Plant

By BEN NEARY | The New Mexican

Wednesday, February 10, 2004

Gov. Bill Richardson says he's strongly considering withdrawing his support of a uranium enrichment plant proposed for Southern New Mexico.

If Richardson sours on the project, officials say it could block plans to build the plant in New Mexico.

Louisiana Energy Services, largely owned by a consortium of European energy companies, has applied to the Nuclear Regulatory Commission for a permit to build the billion-dollar uranium plant near Eunice, in Lea County. The product from the plant would fuel nuclear reactors.

Richardson came out in favor of the plant last year after Louisiana Energy Services officials pledged that no radioactive waste from the plant would remain in New Mexico over the long term.

On Tuesday, however, Richardson said he's concerned that the company's application to the NRC lacks ironclad guarantees that no waste would remain in the state. He said he's also concerned about lack of action in Congress to specify that waste wouldn't remain here.

Sen. Pete Domenici, R-N.M., invited Louisiana Energy Services to come to New Mexico after Tennessee rebuffed its plans to develop an enrichment plant there last year. The company earlier abandoned plans to open shop in Louisiana after encountering strong opposition there as well.

Company officials emphasize that their first choice for disposing of waste from the Lea County plant would be to turn it over to private industry for treatment. However, there's no plant in the United States that can transform waste from the uranium enrichment process, known as tails, into a stable form that can be disposed of safely.

Domenici inserted language in his energy bill, which failed to pass late last year, that would have required the U.S. Department of Energy to take waste from the plant if it's built. That provision aroused concern from plant opponents who argued that the company couldn't honor its pledge to take the waste out of the state if it's in the hands of the federal government.

Late last year, Domenici assured Richardson that he would introduce legislation that would require the DOE to get the waste out of New Mexico if the federal government ever took possession of it. Domenici reintroduced the energy bill this month and again included the specification that the company could turn over waste to the DOE.

However, the DOE already has hundreds of thousands of tons of uranium enrichment waste from old federal plants stockpiled in Ohio and Kentucky. Although the agency has plans to develop a treatment facility for the waste, treating it all would take decades.

Richardson said Tuesday he's concerned that Ohio Gov. Bob Taft recently wrote to the NRC stating that his state doesn't want to accept any waste from the Lea County plant.

"My concerns are I fail to see any language in the Congress that prohibits any disposal in New Mexico," Richardson said Tuesday. "I'm concerned about the NRC application."

*Attachment 1*

Richardson announced in December that Louisiana Energy Services president Jim Ferland had committed to him that he would support the state's efforts to include a prohibition against long-term waste storage in New Mexico in its NRC permit. However, the governor said Tuesday that the company hasn't followed through on that pledge.

Attempts to reach Louisiana Energy Services officials for comment after business hours on Tuesday were unsuccessful. Attempts to reach a spokesman for Domenici after hours also were unsuccessful.

Although the NRC permit is a federal proceeding, state opposition could block the project.

"Our understanding is that the NRC tends to weigh the state's feelings pretty heavily," said Jon Goldstein, spokesman for the New Mexico Environment Department.

In addition to the federal permit, Goldstein said the uranium plant would require approval from the state, including air-quality and water-quality permits.

Don Hancock of the Southwest Research and Information Center in Albuquerque has analyzed Louisiana Energy Services' plans since the company announced its plans to come to New Mexico last year.

Building an enrichment plant anywhere in the country endangers New Mexico because waste could ultimately come here, Hancock said.

Hancock said Louisiana Energy Services has failed to follow through on its commitments to Richardson. "From our standpoint, LES has had six months to show that its commitment meant something, and they haven't done any of the things that they could," he said.

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A7

Tuesday, November 25, 2003

### EDITORIALS

## Eunice Nuclear Waste Has No Place To Go

When Louisiana Energy Services (LES) announced plans to build a uranium enrichment plant near Eunice, the company promised it would not store radioactive waste in New Mexico.

That doesn't necessarily mean the waste would be going somewhere else — there is no place else. But that doesn't necessarily mean that Louisiana Energy Services would be storing the waste in New Mexico — not if it can force the U.S. Department of Energy to do so.

The department already has taken responsibility for some 450,000 tons of uranium hexachloride waste produced by U.S. Enrichment Corp. That waste is sitting outside USEC plants awaiting the establishment of a disposal program — but USEC isn't storing the waste; the Department of Energy is.

Louisiana Energy Services worked with Sen. Pete Domenici, R-N.M., a key architect of the omnibus energy bill, to level the waste storage playing field with USEC, its only competitor. If the bill, currently stalled by Senate filibuster, passes, DOE would be required to accept the company's radioactive waste.

The proposed \$1.2 billion plant would enrich uranium for fuel rods to power nuclear reactors around the world. The plant would generate as much as 5,600 tons of radioactive uranium hexachloride waste each year.

The Department of Energy plans to build two plants to convert that byproduct into uranium oxide before long-term disposal. Judging by the history of the Waste Isolation Pilot Plant and Yucca Mountain, which is still little more than rumor, the span between DOE plans and realization falls somewhere between a month of Sundays and the half-life of plutonium. That doesn't jibe with the impression Louisiana Energy Services left with state officials, including Gov. Bill Richardson.

"LES made a commitment to the governor — and he expects that commitment to be honored — that there will be no long-term storage or disposal of the enrichment byproduct in New Mexico," said Richardson spokesman Gilbert Gallegos.

If the company thinks it can honor that commitment by shouldering off responsibility on a federal agency, New Mexico should follow Louisiana and Tennessee's examples and reject the proposal.

Attachment 2



## ALBUQUERQUE JOURNAL

T.M. PEPPERDAY, Publisher 1926-1956  
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A12

Friday, January 9, 2004

### EDITORIALS

## Uranium Plant Fails To Earn State's Trust

Trust can avert the political chain reaction bound to be triggered by a proposal for a uranium enrichment plant that will generate thousands of tons of radioactive waste.

But the company interested in building a \$1.2 billion plant in southeastern New Mexico — already rejected in two other states — hasn't inspired much trust.

The proposed plant would enrich uranium for nuclear reactor fuel rods, generating up to 5,600 tons of waste each year. No permanent storage facility for the waste exists in the United States. That hasn't stopped LES — formerly Louisiana Energy Services — from promising Gov. Bill Richardson that the radioactive waste will be stored only temporarily at the plant near Eunice.

So, how long is "temporary"?

When LES applied for a Nuclear Regulatory Commission license last month, it proposed building an on-site storage area large enough to hold all the waste the plant would produce during its 25-year lifespan.

LES' only domestic competitor has an estimated 700,000 tons of uranium hexachloride "temporarily" stored at plants in Ohio and Kentucky.

LES stated in its application it would prefer to send the waste to an old uranium mine in Colorado for permanent storage. It continued to maintain that was a "plausible" option even after the owner of the mine said he had never spoken to LES about such a plan, nor was his company interested in storing LES waste.

LES — a project of an international consortium of energy companies — has credibility problems in New Mexico. It struck out in bids to put the facility in Homer, La., and Hartsville, Tenn., because of similar problems.

Unless LES can establish itself here as a plain-speaking, trustworthy corporate citizen, it faces the likelihood of another meltdown from a chain reaction of negative public opinion.

*A Hochman 3*

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URL: <http://www.abqjournal.com/news/state/130435nm0107-04.htm>

Wednesday, January 7, 2004

## Nuke Plant's Waste Plans Questioned

By John Fleck

*Journal Staff Writer*

Federal documents raise new questions about how long radioactive waste might remain at a proposed southeast New Mexico nuclear factory and where it would eventually go.

New Mexico officials have asked for assurances that waste storage at the factory site would be temporary.

But in a federal filing last month, international nuclear consortium LES proposed building a storage area large enough for all the waste produced at the plant over 25 years of operation.

In its application submitted last month to the U.S. Nuclear Regulatory Commission for a license to build the plant, LES said its preferred longterm option would be to send the waste to an old uranium mine in Colorado for disposal.

But the mine owner said his company has not talked to LES and is not willing to take the company's radioactive waste.

"That's not something we're interested in," said Richard Cherry, president of Cotter Corp.

Cotter owns the western Colorado mines identified in LES's application as a possible disposal site. Cherry said such disposal would not be legal.

"We're not licensed to do that," Cherry said in a telephone interview Monday.

LES Vice President Rod Krich acknowledged Tuesday there have been no talks with Cotter but said the option of sending the waste there remains "plausible."

LES—formerly known as Louisiana Energy Services—wants to build a uranium enrichment plant near Eunice. The plant would process uranium for nuclear power plant fuel.

The plant has won enthusiastic support from state and local officials. But that enthusiasm has been tempered by sharp questioning from Gov. Bill Richardson about plans for disposing of the plant's radioactive waste.

Uranium processing generates a type of waste that cannot be dumped legally anywhere in the United States.

Solving the disposal problem requires construction of a new plant to treat the

*Attachment 4*

waste, then finding a dump site that will take it.

Company officials say they are committed to helping set up a treatment plant somewhere in the United States. Cotter Mines is the only site mentioned in their NRC application as an eventual disposal site for the treated waste.

Their NRC application offers no firm commitment for setting up such a treatment and disposal system.

In the nearer term, the company plans to pour a concrete pad to store the waste.

In a Dec. 6 letter to Richardson attempting to calm fears that New Mexico would be stuck with the plant's waste indefinitely, LES president Jim Ferland wrote, "The concrete pad to be initially constructed onsite for the storage (of the waste) will only be of a size necessary to hold a few years' worth, no more."

The company's NRC application describes a concrete storage pad, to be built in stages, sufficient to store 25 years' worth of waste.

Krich said Tuesday there is no contradiction between the commitment to the governor and the application to the NRC.

The company's intention all along has been to build the storage area in phases, Krich said in a telephone interview Tuesday, with an ultimate size sufficient to hold a full 25 years' worth of waste.

The question about the size of the storage pad and the possibility of mine disposal are part of a pattern of behavior by the company, said Don Hancock, head of the nuclear safety project at the Southwest Research and Information Center in Albuquerque.

Over the past 15 years, LES has proposed building similar factories in Louisiana and Tennessee. In both cases the company gave up because of community opposition.

"This is typical of how LES has been for the last 15 years, both in Louisiana and Tennessee," said Hancock, who found the questionable passages about the mine and the storage pad during his review of LES's application. "They'll say whatever they think will get them what they want."

In a statement, Richardson's office said it is still reviewing the NRC application but expects the company to abide by the commitments made in the Dec. 6 letter.

"Governor Richardson expects LES to honor its commitment that there will be no long-term storage or disposal of the enrichment byproduct in New Mexico," the statement said.



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**BOB TAFT  
GOVERNOR  
STATE OF OHIO**

January 15, 2004

Chairman Nils J. Diaz  
Commissioner Edward McGaffigan, Jr.  
Commissioner Jeffrey S. Merrifield  
U.S. Nuclear Regulatory Commission  
One White Flint North  
11555 Rockville Pike  
Rockville, MD 20850-2738

Dear Chairman Diaz and Commissioners McGaffigan and Merrifield:

We understand that in your review of license applications for any new uranium enrichment facility you may take into consideration the provisions of Section 637 of the pending energy legislation that would expedite the approval process and require the U.S. Government to take possession and store for processing additional quantities of depleted uranium hexafluoride (DUF<sub>6</sub>). (see *Nuclear Fuel* dated January 5, 2004)

Therefore, I am writing on behalf of the State of Ohio to express my deep concern about any expedited process that would approve a new facility before the issue of storage and conversion of the DUF<sub>6</sub> byproduct is resolved in a specific and certain manner.

Currently, there is no facility to process the DUF<sub>6</sub> tails. Congress has provided that a DUF<sub>6</sub> conversion facility will be built in Ohio although construction on that project has not commenced. In addition, there already is a very large amount of waste that will have to be processed at a new Ohio facility.

Ohio currently hosts 198,000 metric tons of DUF<sub>6</sub> that was generated principally by the federal government during the Cold War at the Portsmouth Gaseous Diffusion Facility. It is my understanding it could take up to 18 years to process and convert this volume of material. Ohio and the Department of Energy are also currently negotiating an agreement to receive in Ohio DUF<sub>6</sub> generated at Oak Ridge in anticipation of construction of a new DUF<sub>6</sub> processing plant in Ohio. We have worked closely with the Department of Energy to resolve these environmental issues and have made very significant progress.

Acceptance of additional DUF<sub>6</sub> from a new uranium enrichment facility not covered by current agreements would raise significant environmental and public safety issues that would need to be resolved. Our concern in this regard is intensified by the fact that proposed Section

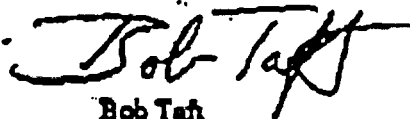
United States Nuclear Regulatory Commission  
January 15, 2004  
Page 2

637 would eliminate the environmental safeguards required by the National Environmental Policy Act (NEPA) with respect to approval of a new uranium enrichment facility.

Therefore, we request that the NRC not approve any new uranium enrichment facility until it is determined how and where the DUF<sub>6</sub> byproduct from such a facility will be stored and processed. In addition, we want you to be aware that acceptance of such additional DUF<sub>6</sub> by Ohio would not be automatic or inevitable. There would be environmental and public safety issues that would have to be negotiated and resolved before we could agree to acceptance of additional material.

We ask that you carefully consider Ohio's views as part of your hearing process for any new uranium enrichment facility. Thank you for your consideration.

Sincerely,



Bob Taft  
Governor