

May 10, 2004

NEF#04-009

ATTN: Document Control Desk  
Director  
Office of Nuclear Material Safety and Safeguards  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

Louisiana Energy Services, L. P.  
National Enrichment Facility  
NRC Docket No. 70-3103

Subject: Response to Request for Additional Information and Application for Withholding Information from Public Disclosure

- References:
1. Letter NEF#03-003 dated December 12, 2003, from E. J. Ferland (Louisiana Energy Services, L. P.) to Directors, Office of Nuclear Material Safety and Safeguards and the Division of Facilities and Security (NRC) regarding "Applications for a Material License Under 10 CFR 70, Domestic licensing of special nuclear material, 10 CFR 40, Domestic licensing of source material, and 10 CFR 30, Rules of general applicability to domestic licensing of byproduct material, and for a Facility Clearance Under 10 CFR 95, Facility security clearance and safeguarding of national security information and restricted data"
  2. Letter NEF#04-002 dated February 27, 2004, from R. M. Krich (Louisiana Energy Services, L. P.) to Director, Office of Nuclear Material Safety and Safeguards (NRC) regarding "Revision 1 to Applications for a Material License Under 10 CFR 70, "Domestic licensing of special nuclear material," 10 CFR 40, "Domestic licensing of source material," and 10 CFR 30, "Rules of general applicability to domestic licensing of byproduct material"
  3. Letter dated April 19, 2004, from T. C. Johnson (NRC) to R. Krich (Louisiana Energy Services) regarding "Request for Additional Information on Louisiana Energy Services Project License Application"

Louisiana Energy Services (LES), L. P., hereby submits an application for withholding information from public disclosure pursuant to 10 CFR 2.390, "Public inspections, exemptions, requests for withholding," paragraph (a)(4).

By letter dated December 12, 2003 (Reference 1), E. J. Ferland of Louisiana Energy Services (LES), L. P., submitted to the NRC applications for the licenses necessary to authorize construction and operation of a gas centrifuge uranium enrichment facility. Revision 1 to these

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applications was submitted to the NRC by letter dated February 27, 2004 (Reference 2). By letter dated April 19, 2004 (Reference 3), the NRC provided the initial technical review of the license application and requested additional information and clarifications be provided within 30 days (i.e., by May 19, 2004).

The Reference 3 letter includes a Request for Additional Information (RAI) GI-1, which requested that a copy of the LES Partnership Agreement be provided to the NRC for review. This information is included in the "Amended and Restated Agreement of Limited Partnership of Louisiana Energy Services, L. P.," dated December 11, 2003.

This information is being submitted under affirmation and the affidavit required by 10 CFR 2.390 (b)(1), signed by an authorized LES representative, is enclosed. The attachment provides the "Amended and Restated Agreement of Limited Partnership of Louisiana Energy Services, L. P.," dated December 11, 2003, as requested in RAI GI-1. This document is considered by LES to be confidential (i.e., proprietary).

If you have any questions, please contact me at 630-657-2813.

Respectfully,



R. M. Krich  
Vice President – Licensing, Safety, and Nuclear Engineering

Enclosure:  
Affidavit

Attachment:  
Amended and Restated Agreement of Limited Partnership of Louisiana Energy Services, L. P.

cc: T. C. Johnson, NRC Project Manager

## ENCLOSURE

### **Affidavit of Rod M. Krich**

Rod M. Krich, being duly sworn, hereby deposes and states as follows:

1. My name is Rod M. Krich. I am the Vice President, Licensing, Safety, and Nuclear Engineering for Louisiana Energy Services, L.P. ("LES").
2. I have been authorized by LES to execute this affidavit in support of LES's request to withhold the Amended and Restated Agreement of Limited Partnership of Louisiana Energy Services, L.P. dated December 11, 2003, hereinafter referred to as the "Partnership Agreement," from public disclosure in accordance with the Nuclear Regulatory Commission's ("NRC's") regulations appearing at 10 C.F.R. § 2.390(a)(4).
3. The Partnership Agreement is being submitted as a proprietary and confidential document in an attachment to LES letter NEF #04-009 from myself to NRC's Document Control Desk dated May 10, 2004, to respond to NRC's Request for Additional Information GI-1 transmitted to LES by letter from T.C. Johnson (NRC) dated April 19, 2004.
4. The Partnership Agreement is proprietary and confidential to LES because it contains commercial and financial information that is not publicly available. Specifically, the Partnership Agreement sets forth detailed information regarding the manner in which LES is managed and controlled. In addition, it identifies specific percentages and dollar amounts of the investments in and profits to be derived from the partnership by the general partners and the limited partners. The Partnership Agreement also addresses highly sensitive details regarding the nature and extent of the particular relationships among all of the partners as well as their respective rights and obligations under the partnership. Finally, the Partnership Agreement contains standards by which the construction and operation of the National Enrichment Facility are to be measured, that in part establish the costs and pricing structures for LES's uranium enrichment services.
5. The Partnership Agreement was drafted and executed by the general partners and the limited partners with the explicit understanding that the document itself and the information contained within it would be treated as proprietary and confidential. LES has consistently maintained the position that the Partnership Agreement and the information contained therein be withheld from public disclosure, and in fact LES has refrained from publicly disclosing the document or its contents. For example, as part of the closing process on the Industrial Revenue Bonds issued by Lea County for the National Enrichment Facility, the Partnership Agreement was not publicly released or included among other publicly available records. LES's general partners and limited partners have also treated the document in the same manner. To the best of my knowledge and belief, neither the Partnership Agreement nor the information contained therein is available in any public source.

6. If the Partnership Agreement or its contents were publicly disclosed, LES would suffer irreparable and incalculable harm. Specifically, LES's competitors would gain valuable insight into otherwise unavailable business strategies, operational plans, financial underpinnings, and legal arrangements of the partnership. By knowing the details associated with the partnership's structure, organization and business, LES's competitors would obtain an unfair commercial advantage which would significantly affect LES's ability to compete. In addition, the success of the LES proposal to construct and operate the National Enrichment Facility is governed in large part by the unique synergies of its various partners, and thus to publicly disclose that arrangement as reflected in Partnership Agreement would result in substantial harm to the competitive position of LES.
7. LES has already provided substantial information regarding the structure and operation of the partnership in the Safety Analysis Report for the License Application (see Section 1.2.1.2). However, neither the specific details of the partnership nor the Partnership Agreement itself have been publicly released for the reasons set forth above. Accordingly, withholding the Partnership Agreement from disclosure will not adversely affect the public. Therefore, the fact that the NRC Staff has requested a copy of the Partnership Agreement does not warrant public disclosure of the document.
8. Given the inter-related nature of the various articles within the Partnership Agreement, it is not possible to designate only certain portions of the document as proprietary and confidential. To attempt to redact specific proprietary information would render the remaining material essentially meaningless and of no value to the public. Rather, the entirety of the Partnership Agreement must be considered proprietary and confidential, and the entire document must be withheld from public disclosure.
9. The Partnership Agreement is being submitted to the NRC in confidence. The document and the information contained within is of a sort customarily held in confidence by LES and its general and limited partners, and in fact has been held in confidence and not previously publicly released.

Further Affiant sayeth not.

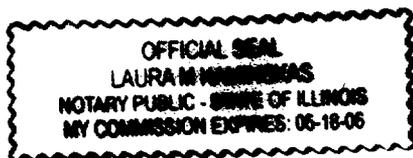


Rod M. Krich  
 Vice President, Licensing, Safety,  
 and Nuclear Engineering  
 Louisiana Energy Services, L.P.

Subscribed and sworn to before me, an Illinois  
 Notary Public, this 10 day of May, 2004:



My Commission expires:



**ATTACHMENT**

**-- Proprietary Information --**

Amended and Restated Agreement of Limited Partnership of Louisiana Energy Services, L. P.