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**OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF**

(National Enrichment Facility)

ASLBP No. 04-826-01-ML

In accordance with the Licensing Board's April 27, 2004 Order,¹ Louisiana Energy Services, L.P. ("LES") hereby requests leave to file a surreply to the New Mexico Environment Department's ("NMED's") May 10, 2004 "Reply in Support of NMED's Petition to Intervene" ("Reply"). NMED filed a request for hearing and petition for leave to intervene on March 23, 2004, to which LES and the Nuclear Regulatory Commission ("NRC") Staff timely responded on April 19, 2004.² NMED subsequently requested an extension of time to file a reply in support of its original hearing request and intervention petition on April 22, 2004.³ The Licensing Board granted NMED an extension to May 10, 2004 to "reply to the LES and Staff answers to its hearing petition." Order at 2. In this regard, the Board specifically noted that "a

³ “NMED’s Motion for Extension of Time to File Reply in Support of Petition for Leave to Intervene” (Apr. 22, 2004) at 1-2.

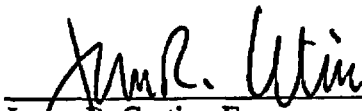
section 2.309(h)(2) reply should be narrowly focused on the legal or logical arguments presented in the applicant/licensee or NRC staff answer." *Id.*

While LES supports NMED's interest in participating in this proceeding with regard to its proffered contentions 5(a), 5(c), and 5(e), LES has good cause to file a surreply to NMED's May 10, 2004 Reply. In its Reply, NMED has provided new information or bases to support the admission of NMED Contention 5a (Technical, Environmental), which principally concerns the proposed *storage* of depleted uranium hexafluoride (DUF₆) at the facility. The new information now proffered by NMED in its Reply pertains to whether LES has presented "a plausible strategy for [the] treatment and disposition of the DUF₆ waste that [its] facility will generate." (Reply at 2.) In particular, NMED devotes approximately five pages of its Reply to a discussion of LES's purported failure to set forth a plausible strategy for the disposition of DUF₆. Additionally, NMED raises a new issue regarding the adequacy of LES's Emergency Plan, taking the position that this issue is "[r]elated to the requirement that LES demonstrate that storage of the depleted uranium is not inimical to safety and health." (Reply at 12.) NMED's Petition did not address, in any of its five proffered contentions, any issues with regard to LES's plausible strategy for disposing of DUF₆ or LES's emergency plan for the National Enrichment Facility.

LES has not had an opportunity to address either of these two new issues, and therefore has good cause to file a surreply. Accordingly, LES respectfully requests that the

Licensing Board permit LES to file a surreply to NMED's May 10, 2004 "Reply in Support of NMED's Petition to Intervene" on or before May 24, 2004.

Respectfully submitted,



James R. Curtiss, Esq.
David A. Repka, Esq.
WINSTON & STRAWN LLP
1400 L Street, N.W.
Washington, DC 20005-3502
(202) 371-5700

John W. Lawrence, Esq.
LOUISIANA ENERGY SERVICES, L.P.
2600 Virginia Avenue, N.W.
Suite 610
Washington, DC 20037

Dated at Washington, District of Columbia
this 12th day of May 2004

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of:

Louisiana Energy Services, L.P.

(National Enrichment Facility)

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Docket No. 70-3103-ML

ASLBP No. 04-826-01-ML

CERTIFICATE OF SERVICE

I hereby certify that copies of the "REQUEST OF LOUISIANA ENERGY SERVICES, L.P. FOR LEAVE TO FILE A SURREPLY TO THE REPLY IN SUPPORT OF NMED'S PETITION TO INTERVENE" in the captioned proceeding have been served on the following by e-mail service, designated by **, on May 12, 2004 as shown below. Additional service has been made by deposit in the United States mail, first class, this 12th day of May 2004.

Chairman Nils J. Diaz
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Commissioner Edward McGaffigan, Jr.
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Commissioner Jeffrey S. Merrifield
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Office of the Secretary**
Attn: Rulemakings and Adjudications Staff
U.S. Nuclear Regulatory Commission
Mail Stop O-16C1
Washington, DC 20555-0001
(original + two copies)
e-mail: HEARINGDOCKET@nrc.gov

Office of Commission Appellate
Adjudication
Mail Stop O-16C1
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Office of the General Counsel**
Attn: Associate General Counsel for
Hearings, Enforcement and
Administration
Lisa B. Clark, Esq.**
Angela B. Coggins, Esq.**
Mail Stop O-15D21
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
e-mail: OGCMailCenter@nrc.gov
e-mail: lbc@nrc.gov
e-mail: abc1@nrc.gov

Ron Curry, Esq.
Clay Clarke, Esq.**
Tannis L. Fox, Esq.
New Mexico Environment Department
1190 St. Francis Drive
Santa Fe, NM 87502-6110
e-mail: clay_clarke@nmenv.state.nm.us

Administrative Judge
G. Paul Bollwerk, III, Chair**
Atomic Safety and Licensing Board Panel
Mail Stop T-3F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
e-mail: gpb@nrc.gov

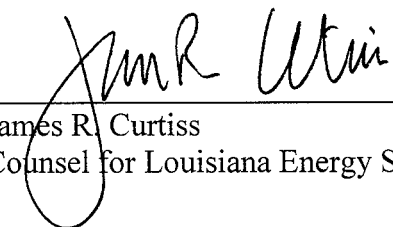
David M. Pato, Esq.**
Stephen R. Farris, Esq.**
Glenn R. Smith, Esq.**
Office of the New Mexico Attorney General
P.O. Box Drawer 1508
Santa Fe, NM 87504-1508
e-mail: dpato@ago.state.nm.us
e-mail: sfarris@ago.state.nm.us
e-mail: gsmith@ago.state.nm.us

Lisa A. Campagna**
Assistant General Counsel
Westinghouse Electric Co., LLC
P.O. Box 355
Pittsburgh, PA 15230-0355
e-mail: campagla@westinghouse.com

Administrative Judge
Paul B. Abramson**
Atomic Safety and Licensing Board Panel
Mail Stop T-3F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
e-mail: pba@nrc.gov

Administrative Judge
Charles N. Kelber**
Atomic Safety and Licensing Board Panel
Mail Stop T-3F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
e-mail: cnk@nrc.gov

Lindsay A. Lovejoy, Jr.**
618 Pasco de Peralta, Unit B
Santa Fe, NM 87501
e-mail: lindsay@lindsaylovejoy.com



James R. Curtiss
Counsel for Louisiana Energy Services, L.P.