

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

RAS 7849

ATOMIC SAFETY AND LICENSING BOARD

DOCKETED 05/28/04

SERVED 05/28/04

Before Administrative Judges:

G. Paul Bollwerk, III, Chairman
Dr. Paul B. Abramson
Dr. Charles N. Kelber

In the Matter of

LOUISIANA ENERGY SERVICES, L.P.

(National Enrichment Facility)

Docket No. 70-3103-ML

ASLBP No. 04-826-01-ML

May 28, 2004

MEMORANDUM AND ORDER

(Initial Prehearing Conference Schedule;
Opportunity for Written Limited Appearance Statements)

I. Initial Prehearing Conference Schedule/Argument Time Allocations

In accord with the Board's April 22, 2004 memorandum and order, the participants are advised of the following information regarding the schedule for the initial prehearing conference in this proceeding:

Dates: Tuesday and Wednesday, June 15-16, 2004

Starting Time: 9:00 a.m. Mountain Daylight Time

Location: Lea County Event Center
5101 Lovington Highway
Hobbs, New Mexico

Additionally, the following is the allocation of time for arguments by legal counsel in connection with the admissibility of the petitioners' contentions, which will be the principal focus of this prehearing conference. In the case of petitioners, at the beginning of argument for each group of contentions, each petitioner will be asked to specify how much of its total allotted time it wishes to reserve for rebuttal. In the case of applicant Louisiana Energy Services, L.P., (LES)

and the NRC staff, the allocations are for response arguments relative to all contentions in the group.¹

1. Health/Safety/Environmental Impacts of Long-Term Waste Storage - New Mexico Environment Department (NMED) Technical Contention (TC)-1/Environmental Contention (EC)-1 (formerly NMED a) and Attorney General of New Mexico (AGNM) EC-ii (formerly AGNM b)

NMED -- 15 minutes

AGNM -- 15 minutes

LES -- 20 minutes

Staff -- 15 minutes

2. "Plausible Strategy" for Waste Disposal - AGNM Miscellaneous Contention (MC)-i (formerly AGNM c); AGNM EC-iii (formerly AGNM d), and Nuclear Information and Resource Service/Public Citizen (NIRS/PC) EC-3/TC-1 (formerly NIRS/PC 2.1)²

AGNM -- 15 minutes

NIRS/PC -- 15 minutes

LES -- 20 minutes

Staff -- 15 minutes

¹ The order of argument for each group would be (1) all petitioner arguments for all contentions in the group; (2) LES response to all petitioner arguments; (3) staff response to all petitioner arguments; (4) all petitioner rebuttal arguments.

² Per the NIRS/PC May 27, 2004 filing, these contentions consist of bases A-D of formerly designated contention NIRS/PC 2.1. See Supplement to Petition to Intervene on Behalf of [NIRS/PC] (May 27, 2004) at 2 [hereinafter NIRS/PC Supplement].

3. Waste Disposal Cost Estimates - NMED EC-2 (formerly NMED b); NMED TC-2/EC-3 (formerly NMED c); AGNM TC-ii (formerly AGNM g); NIRS/PC EC-6/TC-3 (formerly NIRS/PC 4.1)³

NMED -- 15
AGNM -- 15 minutes
NIRS/PC -- 15 minutes

LES -- 25 minutes

Staff -- 20 minutes

4. Financial Qualifications - Miscellaneous - NMED MC-1 (formerly NMED d); AGNM TC-i (formerly AGNM f); AGNM EC-iv (formerly AGNM e); AGNM MC-ii (formerly AGNM h); NIRS/PC EC-5/TC-2 (formerly NIRS/PC 3.1)⁴

NMED -- 15
AGNM -- 15 minutes
NIRS/PC -- 15 minutes

LES -- 25 minutes

Staff -- 20 minutes

5. National Environmental Policy Act Cost-Benefit Analysis - AGNM EC-v (formerly AGNM i); NIRS/PC EC-7/TC-4 (formerly NIRS/PC 5.1)⁵

AGNM -- 15 minutes
NIRS/PC -- 15 minutes

LES -- 20 minutes

Staff -- 15 minutes

³ Per the NIRS/PC May 27, 2004 filing, these contentions consist of bases A-I of formerly designated contention NIRS/PC 4.1. See NIRS/PC Petition Supplement at 2-3.

⁴ Per the NIRS/PC May 27, 2004 filing, these contentions consist of bases A-B of formerly designated contention NIRS/PC 3.1. See NIRS/PC Petition Supplement at 2.

⁵ Per the NIRS/PC May 27, 2004 filing, these contentions consist of bases A-B, D-G of formerly designated contention NIRS/PC 5.1. Basis C of formerly designated contention NIRS/PC 5.1 has been withdrawn. See NIRS/PC Petition Supplement at 3.

6. Radiation Protection - NMED TC-3/EC-4 (formerly NMED e)
NMED -- 15
LES -- 10 minutes
Staff -- 5 minutes
7. Foreign Ownership/National Security/Nuclear Nonproliferation - AGNM EC-i (formerly AGNM a); NIRS/PC EC-8/TC-5 (formerly NIRS/PC 5.2)⁶
AGNM -- 15 minutes
NIRS/PC -- 15 minutes
LES -- 20 minutes
Staff -- 15 minutes
8. Impact of Related Deconversion/Disposal Facilities - NIRS/PC EC-4 (formerly NIRS/PC 2.2)⁷
NIRS/PC -- 15 minutes
LES -- 10 minutes
Staff -- 5 minutes
9. Ground/Surface Water Impacts - NIRS/PC EC-1 (formerly NIRS/PC 1.1)⁸
NIRS/PC -- 15 minutes
LES -- 10 minutes
Staff -- 5 minutes

⁶ Per the NIRS/PC May 27, 2004 filing, contention EC-8 consists of bases A-H of formerly designated contention NIRS/PC 5.2, while contention TC-5 consists of basis G of formerly designated contention NIRS/PC 5.2. See NIRS/PC Petition Supplement at 3-4.

⁷ Per the NIRS/PC May 27, 2004 filing, this contention consists of bases A-B of formerly designated contention NIRS/PC 2.2. See NIRS/PC Petition Supplement at 2.

⁸ Per the NIRS/PC May 27, 2004 filing, this contention consists of basis A of formerly designated contention NIRS/PC 1.1. See NIRS/PC Petition Supplement at 1.

10. Water Supply Impacts - NIRS/PC EC-2 (formerly NIRS/PC 1.2)⁹
NIRS/PC -- 15 minutes
LES -- 10 minutes
Staff -- 5 minutes
11. Natural Gas Transmission Facility Accident Impacts - NIRS/PC EC-9/TC-6 (formerly NIRS/PC 6.1)¹⁰
NIRS/PC -- 15 minutes
LES -- 10 minutes
Staff -- 5 minutes

In making their arguments, the participants should bear in mind that the Licensing Board will have read their pleadings. As such, they should focus their presentations on the critical points in controversy as those issues have emerged as a result of the various participant filings.

II. Limited Appearance Statements by Members of the Public

Relative to the opportunity for members of the public to present limited appearance statements in accord with 10 C.F.R. § 2.315(a), the Board does not intend to conduct oral limited appearance sessions at this juncture, although it may do so in the future at locations near the proposed facility, including Hobbs and Eunice, New Mexico. In the interim, any person not a petitioner to this proceeding that wishes to make a statement regarding the issues in the proceeding can do so in writing. A written limited appearance statement can be submitted at

⁹ Per the NIRS/PC May 27, 2004 filing, this contention consists of basis A of formerly designated contention NIRS/PC 1.2. See NIRS/PC Petition Supplement at 1-2.

¹⁰ Per the NIRS/PC May 27, 2004 filing, these contentions consist of bases A and C of formerly designated contention NIRS/PC 6.1. Bases B and D of formerly designated contention NIRS/PC 6.1 have been withdrawn. See NIRS/PC Petition Supplement at 4.

any time and should be sent to the Office of the Secretary using one of the methods prescribed below:

Mail to: Office of the Secretary
Rulemakings and Adjudications Staff
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Fax to: (301) 415-1101 (verification (301) 415-1966)

E-mail to: hearingdocket@nrc.gov

In addition, a copy of the limited appearance statement should be sent to the Licensing Board Chairman using the same method at the address below:

Mail to: Administrative Judge G. Paul Bollwerk, III
Atomic Safety and Licensing Board Panel
Mail Stop T-3F23
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Fax to: (301) 415-5599 (verification (301) 415-7550)

E-mail to: gpb@nrc.gov

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD¹¹

/RA/

G. Paul Bollwerk, III
ADMINISTRATIVE JUDGE

Rockville, Maryland

May 28, 2004

¹¹ Copies of this memorandum and order were sent this date by Internet e-mail transmission to counsel for (1) applicant LES; (2) petitioners NMED, AGNM, and NIRS/PC; and (3) the staff.

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NUCLEAR REGULATORY COMMISSION

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LOUISIANA ENERGY SERVICES, L.P.) Docket No. 70-3103-ML
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(National Enrichment Facility))

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB MEMORANDUM AND ORDER (INITIAL PREHEARING CONFERENCE SCHEDULE; OPPORTUNITY FOR WRITTEN LIMITED APPEARANCE STATEMENTS) have been served upon the following persons by deposit in the U.S. mail, first class, or through NRC internal distribution.

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Washington, DC 20555-0001

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Docket No. 70-3103-ML
LB MEMORANDUM AND ORDER
(INITIAL PREHEARING CONFERENCE
SCHEDULE; OPPORTUNITY FOR
WRITTEN LIMITED APPEARANCE STATEMENTS)

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[Original signed by Adria T. Byrdsong]

Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 28th day of May 2004