

RAS 8134

July 7, 2004
DOCKETED
USNRC

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

July 13, 2004 (9:53AM)

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

In the Matter of:)	
)	Docket No. 70-3103-ML
Louisiana Energy Services, L.P.)	
)	ASLBP No. 04-826-01-ML
(National Enrichment Facility))	

NOTIFICATION OF LICENSING BOARD OF STATUS OF
DISCUSSIONS ON FACILITY DECOMMISSIONING CONTINGENCY FACTOR ISSUE

This submittal responds to a request made by the Licensing Board during the prehearing conference conducted on June 15, 2004 in Hobbs, New Mexico that the Board be apprised of the outcome of planned discussions regarding potential prehearing resolution of concerns related to the appropriate contingency factor to be used by Louisiana Energy Services, L.P. ("LES") in its facility decommissioning cost estimate. *See* LES Prehearing Conference Tr. at 119. Both NIRS/Public Citizen and the Attorney General of New Mexico ("AGNM") have challenged LES's original proposal to use a 10% contingency factor in its cost estimate for the decommissioning of the National Enrichment Facility ("NEF"). *See* "Petition to Intervene by Nuclear Information and Resource Service and Public Citizen," dated April 6, 2004, at 33 (relating to NIRS/PC EC-5/TC-2); New Mexico Attorney General's Reply in Support of Petition for Leave to Intervene," dated May 24, 2004, at 17 (relating to AGNM TC-i and TC-ii, EC-4)

During the prehearing conference, counsel for LES indicated that in a May 19, 2004 response to an NRC Staff Request for Additional Information ("RAI") concerning this issue, LES committed to use a 25% contingency factor, as provided in NUREG-1757, in its cost

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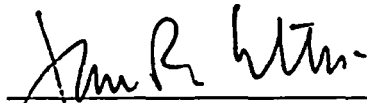
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estimate for the decommissioning of the NEF. *See* LES Prehearing Conference Tr. at 104. After some limited discussion of this issue at the prehearing conference, it was understood that the parties would further discuss whether LES's commitment adequately addressed the petitioners' concerns. *See id.* at 109-110, 119. Accordingly, on June 21, 2004, LES forwarded copies of the May 19, 2004 RAI response via e-mail to counsel for NIRS/Public Citizen and the AGNM, and inquired whether the commitment to use a 25% contingency factor addressed their respective concerns. Additionally, on June 23, 2004, LES furnished a copy of the RAI response to the Board and all parties on the service list. *See* "Identification of References Requested by the Licensing Board at Prehearing Conference," dated June 23, 2004.

On June 23 and June 28, 2004, respectively, counsel for NIRS/Public Citizen and the AGNM indicated that they would need to consult with their respective experts to determine whether LES's commitment adequately addressed their concerns. Counsel for LES sought to ascertain the positions of those parties again in a July 6, 2004 e-mail. Counsel for NIRS/Public Citizen responded today, indicating that his clients were "not in a position to concur on the issue of the contingency allowance" and "need[ed] to see more of the justification for the 25% figure." Counsel for LES attempted to contact counsel for the AGNM again this afternoon by telephone, and left a voicemail, again inquiring about the AGNM's position on this matter. To date, however, the AGNM has yet to state its position.

Accordingly, in view of the time-sensitive nature of this information to the Board's decision on the admissibility of the contentions that raise the issue of the contingency factor, counsel for LES takes this opportunity to apprise the Board of the current status of discussions between LES and NIRS/Public Citizen and the AGNM.

Respectfully submitted,



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Dated at Washington, District of Columbia
this 7th day of July 2004

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of:)	Docket No. 70-3103-ML
)	
Louisiana Energy Services, L.P.)	ASLBP No. 04-826-01-ML
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CERTIFICATE OF SERVICE

I hereby certify that copies of the "NOTIFICATION OF LICENSING BOARD OF STATUS OF DISCUSSIONS ON FACILITY DECOMMISSIONING CONTINGENCY FACTOR ISSUE" in the captioned proceeding have been served on the following by e-mail service, designated by **, on July 7, 2004 as shown below. Additional service has been made by deposit in the United States mail, first class, this 7th day of July 2004.

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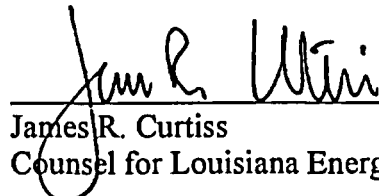
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