

August 31, 2004 (12:14PM)

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

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.)	Docket No. 70-3103-ML
)	
(National Enrichment Facility))	ASLBP No. 04-826-01-ML
)	

**NEW MEXICO ATTORNEY GENERAL'S MOTION FOR CLARIFICATION OF
EXTENT OF ATTORNEY GENERAL'S PARTICIPATION IN THIS LICENSING
PROCEEDING**

Comes now the New Mexico Attorney General ("Attorney General") and respectfully requests that this Atomic Safety and Licensing Board ("Licensing Board") define the scope of her participation in this proceeding with respect to those contentions for which she is not a lead party. In particular, the Attorney General requests, on behalf of the citizens of the State of New Mexico, that she be permitted to interrogate witnesses where cross-examination by NIRS/PC is permitted and to file proposed findings with respect to those particular contentions for which findings are permitted. The Attorney General submits that such participation is integral in ensuring that the citizens of New Mexico are meaningfully represented in this proceeding, and that such active participation has been afforded to intervenors in the past under long-standing Nuclear Regulatory Commission precedent. See, e.g., In re Northern States Power Co. (Prarie

Island Nuclear Generating Plant, Units 1 and 2), ALAB-252, 8 AEC 1175, aff'd, CLI-75-1, 1 NRC 1, 1-2 (1975) (stating that “an intervenor can and should be afforded the opportunity to cross-examine on those portions of a witness testimony which relate to matters which have been placed into controversy by at least one of the parties to the proceeding . . . so long as the intervenor has a discernible interest in the resolution of the particular matter” and recognizing the “fundamental importance of meaningful public participation in [the NRC] adjudicatory process”) (internal quotation marks and citation omitted); In re Pennsylvania Power & Light Co. Allegheny Elec. Coop., Inc. (Susquehanna Steam Electric Station, Units 1 and 2), LBP-79-6, 9 NRC 291, 291 (1979) (providing that, as a general rule of practice, “[a]ny intervenor may cross-examine and submit proposed findings and conclusions of law on other parties’ contentions and issues raised by the Licensing Board, if any”). For these reasons, the Attorney General respectfully requests that she be permitted to interrogate witnesses and to file proposed findings and conclusions of law on other parties’ contentions. NMED supports the Attorney General’s Motion for Clarification, NIRS/PC does not oppose this motion, LES is not prepared to take a position on this motion, and NRC Staff has noted that it will respond to this motion in writing.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the NEW MEXICO ATTORNEY GENERAL'S MOTION FOR CLARIFICATION OF EXTENT OF ATTORNEY GENERAL'S PARTICIPATION IN THIS LICENSING PROCEEDING have been served upon the following persons by electronic mail, facsimile, and/or first class U.S. mail this 24th day of August, 2004:

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NEW MEXICO ATTORNEY GENERAL'S MOTION FOR CLARIFICATION OF EXTENT OF ATTORNEY
GENERAL'S PARTICIPATION IN THIS LICENSING PROCEEDING

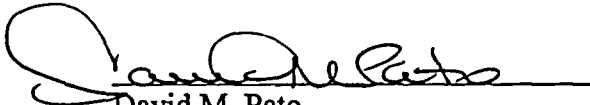
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August 24, 2004

Secretary of the Commission
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Facsimile: (301) 415-1101

Re: **In the Matter of Louisiana Energy Services, L.P. (National
Enrichment Facility)**
Docket No. 70-3103

Dear Rulemaking and Adjudications Staff:

Enclosed is the original and three copies of the NEW MEXICO ATTORNEY GENERAL'S MOTION FOR CLARIFICATION OF EXTENT OF ATTORNEY GENERAL'S PARTICIPATION IN THIS LICENSING PROCEEDING. The New Mexico Attorney General would appreciate it if you would kindly file, endorse and return a copy in the enclosed self-addressed, stamped envelope provided herewith.

Thank you for your assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "David M. Pato".

David M. Pato
Assistant Attorney General
New Mexico Attorney General's Office

• Enclosures