

INTERROGATORY NO. 2:

Identify each person who was consulted and/or who supplied information in responding to the requests for admission or interrogatories set forth herein. Indicate for which specific requests for admission, or interrogatories, each person was consulted and/or supplied information. For each such person, identify the individual's occupation, training, and qualifications.

Dr. Marvin Resnikoff and Allen Messenger were consulted and have supplied information in responding to each of the interrogatories, and Dr. Marvin Resnikoff supplied information in responding to each of the requests for admission. David Pato assisted Dr. Resnikoff and Allen Messenger in responding to each of the requests for admission and each of the interrogatories. Dr. Resnikoff's and Mr. Messenger's occupation, training, and qualifications follow.

EDUCATION

University of Michigan
Ann Arbor, Michigan

PhD in Physics, June 1965
M.S. in Physics, Jan 1962
B.A. in Physics/Math, June 1959

Dr. Marvin Resnikoff is Senior Associate at Radioactive Waste Management Associates and is an international consultant on radioactive waste management issues. He is Principal Manager at Associates and is Project Director for dose reconstruction and risk assessment studies of radioactive waste facilities and transportation of radioactive materials. Dr. Resnikoff has concentrated exclusively on radioactive waste issues since 1974. He has conducted studies on the remediation and closure of the leaking Maxey Flats, Kentucky radioactive landfill for Maxey Flats Concerned Citizens, Inc. and of the leaking uranium basin on the NMI/Starmet site in Concord, Massachusetts under grants from the Environmental Protection Agency. He also conducted studies of the Wayne and Maywood, New Jersey thorium Superfund sites and proposed low-level radioactive waste

facilities at Martinsville (Illinois), Boyd County (Nebraska), Wake County (North Carolina), Ward Valley (California) and Hudspeth County (Texas). He investigated phosphogypsum plants in Florida and Texas, and served as an expert witness in a personal injury case involving a Texas phosphogypsum worker. He is also serving as an expert witness for CRPE, a public interest groups, regarding the proposed expansion of the Buttonwillow, California NORM landfill. He has conducted several studies of transportation accident risks and probabilities for the State of Nevada and several Nevada counties and dose reconstruction studies of oil pipe cleaners in Mississippi and Louisiana, residents of Canon City, Colorado near a former uranium mill, residents of West Chicago, Illinois near a former thorium processing plant, and residents and former workers at a thorium processing facility in Maywood, New Jersey. In West Chicago he calculated exposures and risks due to thorium contamination and served as an expert witness for plaintiffs A Muzzey, S Bryan, D Schroeder and assisted counsel for plaintiffs KL West and KA West. He is presently serving as an expert witness for plaintiffs in Karnes County, Texas, Milan, NM and Uravan, CO, who were exposed to radioactivity from uranium mining and milling activities. He also evaluated radiation exposures and risks in worker compensation cases involving G Boeni and M Talitsch, former workers at Maywood Chemical Works thorium processing plant. Dose reconstruction studies are also being prepared for workers at the ITCO oil pipe cleaning yard in Louisiana. In June 2000, he was appointed to a Blue Ribbon Panel on Alternatives to Incineration by DOE Secretary Bill Richardson.

In February 1976, assisted by four engineering students at State University of New York at Buffalo, Dr. Resnikoff authored a paper that, according to *Science*, changed the

direction of power reactor decommissioning in the United States. His paper showed that power reactors could not be entombed for long enough periods to allow the radioactivity to decay to safe enough levels for unrestricted release. The presence of long-lived radionuclides meant that large volumes of decommissioning waste would still have to go to low-level or high-level waste disposal facilities. He assisted public interest groups on the decommissioning of the Yankee-Rowe, Diablo Canyon, Big Rock Point and Haddam Neck reactors.

Under a contract with the State of Utah, Dr. Resnikoff is a technical consultant to DEQ on the proposed dry cask storage facility for high-level waste at Skull Valley, Utah and proposed storage/transportation casks. He is assisting the State on licensing proceedings before the Nuclear Regulatory Commission. In addition, at hearings before state commissions and in federal court, he has investigated proposed dry storage facilities at the Point Beach (WI), Prairie Island (MN) and Palisades (MI) reactors. He has also prepared studies on transportation risks and consequences for the State of Nevada and Clark and White Pine Counties.

In Canada, he has conducted studies on behalf of the Coalition of Environmental Groups and Northwatch for hearings before the Ontario Environmental Assessment Board on issues involving radioactive waste in the nuclear fuel cycle and Elliot Lake tailings and the Interchurch Uranium Coalition in Environmental Impact Statement hearings before a Federal panel regarding the environmental impact of uranium mining in Northern Saskatchewan. He has also worked on behalf of the Morningside Heights Consortium regarding radium-contaminated soil in Malvern and on behalf of Northwatch regarding decommissioning the Elliot Lake tailings area before a FEARO panel. He conducted a

study for Concerned Citizens of Manitoba regarding transportation of irradiated fuel to a Canadian high-level waste repository.

He was formerly Research Director of the Radioactive Waste Campaign, a public interest organization conducting research and public education on the radioactive waste issue. His duties with the Campaign included directing the research program on low-level commercial and military waste and irradiated nuclear fuel transportation, writing articles, fact sheets and reports, formulating policy and networking with numerous environmental and public interest organizations and the media. He is author of the Campaign's book on "low-level" waste, *Living Without Landfills*, and co-author of the Campaign's book, *Deadly Defense, A Citizen Guide to Military Landfills*.

Between 1981 and 1983, Dr. Resnikoff was a Project Director at the Council on Economic Priorities, a New York-based non-profit research organization, where he authored the 390-page study, *The Next Nuclear Gamble, Transportation and Storage of Nuclear Waste*. The CEP study details the hazard of transporting irradiated nuclear fuel and outlines safer options.

Dr. Resnikoff is an international expert in nuclear waste management, and has testified often before State Legislatures and the U.S. Congress. He has extensively investigated the safety of the West Valley, New York and Barnwell, South Carolina nuclear fuel reprocessing facilities. His paper on reprocessing economics (*Environment*, July/August, 1975) was the first to show the marginal economics of recycling plutonium. He completed a more detailed study on the same subject for the Environmental Protection Agency, "Cost/Benefits of U/Pu Recycle," in 1983. His paper on decommissioning nuclear reactors (*Environment*, December, 1976) was the first to show that reactors would remain

radioactive for hundreds of thousands of years. In January 2004, a book on groundwater contamination at DOE facilities he investigated will be released by ANA, a consortium of public interest groups residing near DOE facilities.

Dr. Resnikoff has prepared reports on incineration of radioactive materials, transportation of irradiated fuel and plutonium, reprocessing, and management of low-level radioactive waste. He has served as an expert witness in state and federal court cases and agency proceedings. He has served as a consultant to the State of Kansas on low-level waste management, to the Town of Wayne, New Jersey, in reviewing the cleanup of a local thorium waste dump, to WARD on disposal of radium wastes in Vernon, New Jersey, to the Southwest Research and Information Center and New Mexico Attorney General on shipments of plutonium-contaminated waste to the WIPP facility in New Mexico and the State of Utah on nuclear fuel transport. He has served as a consultant to the New York Attorney General on air shipments of plutonium through New York's Kennedy Airport, and transport of irradiated fuel through New York City, and to the Illinois Attorney General on the expansion of the spent fuel pools at the Morris Operation and the Zion reactor, to the Idaho Attorney General on the transportation of irradiated submarine fuel to the INEL facility in Idaho and to the Alaska Attorney General on shipments of plutonium through Alaska. He was an invited speaker at the 1976 Canadian meeting of the American Nuclear Society to discuss the risk of transporting plutonium by air. As part of an international team of experts for the State of Lower Saxony, the Gorleben International Review, he reviewed the plans of the nuclear industry to locate a reprocessing and waste disposal operation at Gorleben, West Germany. He presented evidence at the Sizewell B Inquiry on behalf of the Town and Country Planning Association (England) on transporting nuclear

fuel through London. In July and August 1989, he was an invited guest of Japanese public interest groups, Fishermen's Cooperatives and the Japanese Congress Against A- and H-Bombs (Gensuikin).

Between 1974 and 1981, he was a lecturer at Rachel Carson College, an undergraduate environmental studies division of the State University of New York at Buffalo, where he taught energy and environmental courses. The years 1975-1977 he also worked for the New York Public Interest Group (NYPIRG).

In 1973, Dr. Resnikoff was a Fulbright lecturer in particle physics at the Universidad de Chile in Santiago, Chile. From 1967 to 1973, he was an Assistant Professor of Physics at the State University of New York at Buffalo. He has written numerous papers in particle physics, under grants from the National Science Foundation. He is a 1965 graduate of the University of Michigan with a Doctor of Philosophy in Theoretical Physics, specializing in group theory and particle physics.

Allen Messenger

EDUCATION: M.S. CIVIL ENGINEERING, Texas A&M University, 1979

B.S. BIOLOGY, Minors in Math, Chemistry, Computer

Science, Stephen F. Austin State University, 1975

PRINCIPAL, A M Environmental, LLP, Austin, Texas, 2002 - Present

PRESIDENT, A M Environmental, Inc. Austin, Texas 1989 – 2001

INDEPENDENT PROFESSIONAL ENGINEER, Messenger Environmental Service,
1986 - 1989

SENIOR STAFF ENGINEER, Espey Huston & Associates, 1985 - 1986

HEAD, Disposal Facilities Unit, Texas Department of Water Resources (TDWR), Austin,
1981 - 1985

PERMIT WRITER, Industrial Solid Waste Section, TDWR, Austin, 1980 - 1981

PROJECT MANAGER, Hays & Lindsey, Austin, 1978 - 1980

CONSULTANT, Oceanography International, College Station, 1977-1978

RESEARCH ASSISTANT, Texas A&M University, 1975 - 1978

ASSISTANT DIRECTOR OF AIR AND WATER POLLUTION CONTROL, City of
Nacogdoches, 1975

Mr. Messenger has provided consulting engineering services for over 18 years. Larger projects include site selection and permitting a green field commercial industrial and hazardous waste disposal facility, project management of license/permit applications for: a Class C radioactive materials storage and processing facility; a Class A, B & C radioactive waste disposal application; TSCA storage facilities; commercial hazardous waste landfills; a hazardous waste and TSCA processing and incinerator complex; 25,000

drum equivalents of container storage; fuel blending and storage; stabilization; a medical waste incinerator, industrial waste water discharge; non-attainment permit for NOx as well as general air permits. Smaller projects include: evaluation of biological, physical/chemical treatment systems, design of contaminated soil and groundwater investigations, remedial and closure systems design, environmental assessments, environmental compliance audits and regulatory compliance negotiation, and expert witness and consulting expert services.

While employed by the TDWR, as the Head of the Disposal Facilities Unit, he and his staff were responsible for: development of land disposal regulations including regulations and guidance on design, siting and groundwater monitoring of hazardous and non-hazardous waste landfills; review and technical approval of proposed and existing hazardous and non-hazardous industrial landfills throughout the State of Texas; concurrent review of new municipal landfills proposed in the State of Texas; review and approval of closure plans for industrial hazardous waste disposal units and the design of groundwater monitoring systems. Mr. Messenger served on the EPA/ASTSWMO Task Force to develop siting standards for hazardous waste landfills. He also acted as an expert witness in permit hearings, as a public speaker on behalf of the TDWR at various citizen, public and government meetings, and provided comments on behalf of the State of Texas on EPA regulations and guidance pertaining to hazardous waste management and implementation of HSWA requirements including Continuing Releases and Minimum Technological Requirements.

While at Hays & Lindsey, representative projects include industrial wastewater treatability studies/treatment plant designs as well as the design of microcomputer-based

software for the performance evaluation, reporting and operation of a complex industrial wastewater treatment system.

While at Texas A&M University research projects include: investigation of the water quality of seven coastal canal communities in the Galveston Bay system during which conducting extensive sampling and chemical analysis of both canal water and runoff water as well as similitude and mathematical modeling of stratification, circulation, and flushing in the canals was conducted to assess the causes of fish kills; the potential use of biological treatment processes for potable waste supplies were investigated using the Limulus Lysate and Standard Rabbit tests to quantify endotoxin concentrations and the effects of dermal, oral and inhalation exposure to treated wastewaters; and development of analytical procedures for the Ampule Method of COD determination on behalf of Oceanography International Corp. which included "Alternate Method Equivalency Testing" that resulted in EPA and ASTM approval for the Ampule Method as a replacement for the Standard Method COD (reflux) test.

While Assistant Director of Air and Water Pollution Control for the City of Nacogdoches, responsibilities included the sampling and analysis of local stream water quality, sampling and analysis of industrial wastewater discharges and effluent from the City's wastewater treatment facilities as well as operation of an extended-air and two-stage trickling filter treatment plants.

INTERROGATORY NO. 3:

Identify any person you will use as a witness in this proceeding to testify regarding the admitted AGNM contentions. If you rely on any such person as an expert witness, state the details of each witness's education, professional qualifications, and employment history; state the subject matter on which each of the witnesses is expected to testify at the hearing; describe the facts and opinions to which each witness is expected to testify, including a summary of the grounds for each opinion; and identify all documents, data, or other information which each witness has reviewed and considered or is expected to rely on for his or her testimony.

Dr. Marvin Resnikoff and Mr. Allen Messenger will be the Attorney General's witnesses on contention AGNM TC-ii. Dr. Resnikoff is an international expert on radioactive waste management and has worked on the issue for the past 29 years. The details of his education and work experience are contained in the attached resume. Specific to uranium enrichment, for the Environmental Protection Agency, he produced the attached 1983 report on the economics of recycling uranium/plutonium. In 1988, for the Radioactive Waste Campaign, he co-authored the book *Deadly Defense*, on contamination at Department of Energy Facilities, including gaseous diffusion plants. In 2002, he was project director for the report, "Groundwater Movement at the Portsmouth Gaseous Diffusion Plant." In the year 2004, he was project director for the report, "Danger Below," on groundwater contamination at DOE facilities, including the gaseous diffusion plants. Dr. Resnikoff will testify on the issue of disposal cost estimates and will opine that the waste disposal costs have been underestimated by LES.

At this stage, the documents he will rely on are listed below:

- a) the CEC application, hearing transcripts and Board decision on waste disposal cost
- b) the DOE, PEIS on Alternative Strategies for the Long-Term Management and Use of DUF6, December 1997

c) UCRL-AR-127650

d) LLW disposal costs at Barnwell (SC), Waste Control Specialists (TX), Envirocare (UT)

e) documents related to contingency factors, such as "Guidelines for Producing Commercial Nuclear Power Decommissioning Cost Estimates," AIF/NESP-036, Table 13.1.

Mr. Messenger's qualifications are provided in response to Interrogatory No. 2. He will opine on matters related to tails decommissioning costs with regard to factors that affect such costs. Mr. Messenger has reviewed and considered the following documents:

Paducah DUF6 DEIS: December 2003 SUMMARY;

NEF Safety Analysis Report December 2003 Section 3.3;

NEF Environmental Report December 2003 Sections 5.0 through 5.2.13;

NEF Environmental Report December 2003 Sections 7.2.2 through 7.2.2.8;

NEF Environmental Report December 2003 Sections 3.4 through 3.12.3;

NEF Environmental Report December 2003 Sections 3.2 through 3.3.3.2;

NEF Safety Analysis Report December 2003 Section 3;

NEF Safety Analysis Report December 2003 Sections 1.0 through 2.4;

NEF Safety Analysis Report December 2003 Section 3, Figures;

NEF Safety Analysis Report December 2003 Section 3.5 through 3.5.20;

NEF Safety Analysis Report December 2003 Section 8.0 through 8.1;

NEF Safety Analysis Report Revision 1, February 2004, Sections 4.0 through 4.12;

March 24, 2003 Letter from Robert C. Pierson, Director Division of Fuel Cycle Safety and Safeguards Office of Nuclear Material Safety and Safeguards to Mr. Rod M. Krich Director, Licensing, Louisiana Energy Services;

Legal Requirements Portsmouth DUF6 DEIS: December 2003 Section 6;

COST ANALYSIS REPORT FOR THE LONG-TERM MANAGEMENT OF DEPLETED URANIUM HEXAFLUORIDE, LLNL, May 1997;

Assessment Approach and Methodology, Depleted UF6 PEIS, Section 4;

U.S. Department of Energy, Final Plan for the Conversion of Depleted Uranium Hexafluoride As Required by Public Law 105-204, July 1999;

December 1989, Australian Government Publishing Service, Canberra, National Occupational Health and Safety Commission, HYDROGEN FLUORIDE;

Impacts Paducah DUF6 DEIS: December 2003, Section 5;

Summary Paducah DUF6 DEIS: December 2003;

Summary Portsmouth DUF6 DEIS: December 2003;

LES Financial 19971218b.htm;

Scoping Summary Report Portsmouth DUF6 DEIS: December 2003, Appendix C;

UDS Contract – DE-AC05-02OR22717;

Cylinder Corrosion Depleted UF6 PEIS; and

Urenco email (Privileged);

as well as applicable NRC regulations, NUREGs and Regulatory Guides and any other documents that become available after this Interrogatory response that are applicable to analyzing LES's cost estimates and and disposal costs.

The Attorney General will supplement her response to this interrogatory with the facts and opinions, and summary of the grounds for Dr. Resnikoff's and Mr. Messenger's opinions once their analysis is completed.

INTERROGATORY NO. 4:

Do you intend to rely on any evidence or testimony presented in a previous proceeding relating to the licensing of a uranium enrichment facility? If so, identify the proceeding and state the nature of the evidence or testimony, including citations to the portions of any transcripts you intend to rely on.

Yes, the CEC proceeding, including pre-filed testimony, hearing transcripts and Licensing Board rulings. This has not yet been carried out, but as part of that proceeding, the report, UCRL-AR-127650, has been reviewed.

INTERROGATORY NO. 5 (Disposal Cost Estimates)

State all facts that support your contention that the cost estimate developed by LES for the cost of disposing of tails is improperly premised upon information provided by URENCO. Identify all information provided by URENCO which you allege was improperly used by LES.

Dr. Resnikoff has not yet reviewed the URENCO documents. While URENCO is converting UF6 to U3O8, no waste disposal is presently taking place. Hence, the contingency factor must be high to reflect this uncertainty. Mr. Messenger's review of the URENCO material reveals that neither the costs of transportation nor the costs associated with long-term storage are clearly included within the figure provided by URENCO.

INTERROGATORY NO. 6 (Disposal Cost Estimates)

State all facts that support your contention that the cost estimate developed by LES for the cost of disposing of tails is improperly premised upon information related to the license application submitted by LES to build and construct a uranium enrichment facility in Louisiana.

The disposal costs of neutralized HF, in the form of CaF_2 , must be correctly taken into account. It does not appear that waste disposal costs have been correctly escalated from 1996 to the year 2002. The contingency factor for waste disposal appears to be too low. The calculations are not exhibited in Chapter 10 of the SAR. Additionally, Mr. Messenger's review of the URENCO material reveals that neither the costs of transportation nor the costs associated with long-term storage are clearly included within the figure provided by URENCO.

INTERROGATORY NO. 7 (Disposal Cost Estimates)

Identify all information used by LES related to its previous Louisiana site application upon which you premise your contention.

At this stage, Dr. Resnikoff has only reviewed the LLNL report. The CEC application has not yet been reviewed in detail. Mr. Messenger has not reviewed the cost estimate prepared in support of the CEC licensing proceeding except for that provided in LES's application.

INTERROGATORY NO. 8 (Decommissioning Costs)

State all facts that support your contention that the contingency factor used by LES to determine decommissioning costs is inadequate.

In nuclear facility engineering, it is not unusual to have a contingency factor of 75% for processes still in the developmental stage. See the report, "Guidelines for Producing Commercial Nuclear Power Decommissioning Cost Estimates," AIF/NESP-036, Table 13.1 by the Atomic Industrial Forum (now Nuclear Energy Institute) for contingency factors of 50% for decontamination and 75% for reactor vessel and internals removal.

INTERROGATORY NO. 9 (Decommissioning Costs)

Identify all aspects of the decommissioning cost estimate to which you allege an inadequate contingency factor has been applied.

Waste processing, storage, transportation and disposal.

INTERROGATORY NO. 10 (Decommissioning Costs)

State what contingency factor you allege is appropriate and state all facts which support the use of that contingency factor. Specify what specific aspects of the cost estimate you allege should be subject to the contingency factor and what contingency factor should be applied to each identified aspect of the cost estimate. State all facts that support your calculation of the contingency factors identified.

The Attorney General is in the process of analyzing this issue, but contingency factors between 50% and 75% would not be unusual.

INTERROGATORY NO. 11 (Decommissioning Costs)

State all facts that support your contention that LES has included an inadequate capital cost in estimating decommissioning costs.

The Attorney General is in the process of analyzing this issue.

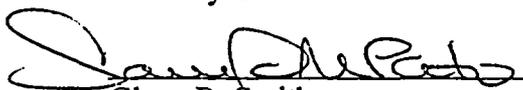
INTERROGATORY NO. 12 (Decommissioning Costs)

State what cost of capital you allege is appropriate and all facts which support the use of that cost of capital.

The Attorney General is in the process of analyzing this issue.

Respectfully submitted,

PATRICIA A. MADRID
Attorney General



Glenn R. Smith
Deputy Attorney General
Christopher D. Coppin
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**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD**

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

CERTIFICATE OF SERVICE

I hereby certify that copies of the NEW MEXICO ATTORNEY GENERAL'S RESPONSE TO NUCLEAR REGULATORY COMMISSION STAFF'S INTERROGATORIES have been served upon the following persons by electronic mail, facsimile, and/or first class U.S. mail this 23rd day of September, 2004:

Office of Commission Appellate Adjudication U.S. Nuclear Regulatory Commission Washington, DC 20555-0001	Administrative Judge G. Paul Bollwerk, III, Chair Atomic Safety and Licensing Board Panel U.S. Nuclear Regulatory Commission Washington, DC 20555-0001 E-mail: gpb@nrc.gov
Administrative Judge Paul B. Abramson Atomic Safety and Licensing Board Panel 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 U.S. Nuclear Regulatory Commission Washington, DC 20555-0001 E-mail: cnk@nrc.gov
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U.S. Nuclear Regulatory Commission
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David M. Pato
Assistant Attorney General



Attorney General of New Mexico

PATRICIA A. MADRID
Attorney General

STUART M. BLUESTONE
Chief Deputy Attorney General

GLENN R. SMITH
Deputy Attorney General

September 23, 2004

Secretary of the Commission
United States Nuclear Regulatory Commission
Attn: Rulemaking and Adjudications Staff
Washington, D.C. 20555-0001
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 Response to NRC Staff's Interrogatories and Louisiana Energy Services, L.P.s interrogatories. The New Mexico Attorney General would appreciate it if you would kindly file, endorse and return a copy of each in the enclosed self-addressed, stamped envelope provided herewith.

Thank you for your assistance.

Sincerely,

A handwritten signature in cursive script that reads "David M. Pato".

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

Enclosures