

RELATED CORRESPONDENCE

October 12, 2004
DOCKETED
USNRC

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

October 13, 2004 (7:41AM)

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))	

APPLICANT'S OBJECTIONS AND RESPONSES TO REQUESTS FOR DOCUMENT PRODUCTION FROM ATTORNEY GENERAL OF NEW MEXICO

On September 8, 2004, Petitioner, Attorney General of New Mexico ("AGNM"), filed interrogatories in this proceeding, along with requests for the production of documents and identification of expert witnesses.¹ Applicant, Louisiana Energy Services, L.P. ("LES") responded to the AGNM interrogatories and request for identification of expert witnesses on September 23, 2004.² Herein, LES responds to the AGNM request for production of documents.

¹ "New Mexico Attorney General's Interrogatories, Requests for Production, and Identification of Expert Witness," September 8, 2004.

² "Applicant's Objections and Responses to Interrogatories From New Mexico Attorney General," September 23, 2004 ("LES Responses to AGNM Interrogatories").

REQUEST FOR PRODUCTION #1

Provide a copy of any contract that LES has in place or that LES is considering for the disposal of depleted UF₆.

RESPONSE:

No such contract exists, nor is LES required to have such a contract. See LES's response to AGNM Interrogatory 10 and the objections stated therein, which are incorporated by reference in response to this request for production. LES Responses to AGNM Interrogatories at 6-7.

REQUEST FOR PRODUCTION #2

Provide copies of any documents that discuss the date by which LES currently intends to have a contract in place for the disposal of depleted UF₆.

RESPONSE:

See response to request for production #1, *supra*.

REQUEST FOR PRODUCTION #3

Provide copies of the correspondence and other documents received by LES from Urenco which discuss the costs, procedures or practices for the disposal of depleted UF₆.

RESPONSE:

Any "correspondence and other documents" in the possession of LES that may be responsive to this request previously have been provided to the AGNM as part of LES's mandatory initial disclosures.

REQUEST FOR PRODUCTION #4

Provide copies of any documents related to the estimated cost of disposing of depleted UF₆ from the proposed NEF that were reviewed by Urenco.

RESPONSE:

The following documents were reviewed by Urenco:

- (1) NEF Environmental Report Section 4.13 (publicly available).

- (2) NEF Safety Analysis Report Chapter 10 (publicly available)
- (3) ERI Report - ERI 21290302, "Estimated Cost for Disposition of DUF₆" previously provided by LES as part of its mandatory initial disclosures at LES-01869 to LES-01891.

REQUEST FOR PRODUCTION #5

Provide copies of any workpapers, reports or correspondence prepared by Urenco related to its review of the estimated cost of the disposal of depleted UF₆ from the proposed NEF.

RESPONSE:

LES previously has provided all documents in its possession that are responsive to this request. Specifically, see proprietary document entitled "Project LES" at LES-PRO-00523 to LES-PRO-00581.

REQUEST FOR PRODUCTION #6

Provide a complete copy of the Department of Energy's Draft 1997 Programmatic Environmental Impact Statement, cited at page 10.3-1 in the NEF SAR as DOE, 1997.

RESPONSE:

LES objects to this request on the ground that the AGNM has not demonstrated that the requested document could not have been obtained from another source, *i.e.*, from the Department of Energy as a publicly available document.

REQUEST FOR PRODUCTION #7

Provide copies of the May 1997 Engineering Analysis Report (UCRL-AR-124080), Volumes 1 and 2, cited at page 10.3-2 in the NEF SAR as Dubrin, 1997.

RESPONSE:

LES objects to this request on the ground that the AGNM has not demonstrated that the requested document could not have been obtained from another source, *i.e.*, the cited document is publicly available. See <http://web.ead.anl.gov/uranium/documents/eng/index.cfm>.

REQUEST FOR PRODUCTION #8

Provide copies of any documents in the possession of LES which discuss the actual experience or costs associated with the disposal of depleted UF₆.

RESPONSE:

LES objects to this request on the ground that it is vague and ambiguous in its use of the phrase "actual experience or costs." Notwithstanding, and without waiving this objection, LES states that any documents in its possession that may be responsive to this request previously have been provided to the AGNM as part of LES's mandatory initial disclosures.

REQUEST FOR PRODUCTION #9

Reference page 10.3-2 of the NEF SAR. Provide any documentation, prepared by or for LES or in LES's possession, in which the validity of conclusion that the AHF and CaF₂ conversion products would be of sufficient purity that they could be sold for unrestricted use has been evaluated.

RESPONSE:

LES objects to this request on the grounds that it (1) seeks information that is not reasonably calculated to lead to the discovery of admissible evidence in this proceeding, and (2) seeks information outside the scope of any admitted AGNM contention. Specifically, the scope of contention AGNM TC-ii is limited to LES's use of information from (1) "the Urenco contract" and (2) LES cost estimates developed in connection with the Claiborne Enrichment Center license application. *Louisiana Energy Servs., L.P. (National Enrichment Facility)*, LBP-04-14, 60 NRC __ (July 19, 2004) (slip op. at 2, Appendix A). Notwithstanding, and without waiving this objection, LES states that any documents in its possession that may be responsive to this request previously have been provided to the AGNM as part of LES's mandatory initial disclosures and/or are publicly available. In addition, it is not LES's "conclusion that the AHF and CaF₂ conversion products would be of sufficient purity that they could be sold for unrestricted use." Rather, the latter is addressed in the "Cost Analysis Report for the Long-Term

Management of Depleted Uranium Hexafluoride," UCRL-AR-127650, Lawrence Livermore National Laboratory, E. Hatem, J. Zeller, L. Szytel (May, 1997), §§ 4.2.2 and 6.3.1. Finally, AGNM is directed to the October 4, 2004, depositions of Bernard Duperret and Paul G. Schneider regarding this request.

REQUEST FOR PRODUCTION #10

Reference page 10.3-2 of the NEF SAR. Provide a copy of the independent new underground mine production cost analysis that confirmed that the LLNL concrete vault alternative costs represent an upper bound for underground mine disposal.

RESPONSE:

See LES Response to Request for Production #9, *supra*, and the objections stated therein, which are incorporated by reference in response to this request for production. Notwithstanding, and without waiving this objection, LES states that it previously has provided information responsive to this request to the AGNM. See LES Environmental Report, § 4.13.3.1.6 at 4.13-19 to 4.13-20; Western Mine Engineering, Inc., "Shrinkage Mining - Shaft Access (UG Mine Production Costs)," Personal Communication from Otto Schumacher to Julian Steyn (Jan. 14, 2003) (LES mandatory initial disclosures at LES-01789 to LES-01792).

REQUEST FOR PRODUCTION #11

Reference page 10.3-3 of the NEF SAR. Provide a copy of the Urenco contract with a supplier for DUF_6 to DU_3O_8 conversion.

RESPONSE:

The tails toll deconversion contract contains information which is proprietary to both Urenco and a third party. Permission for disclosure of this contract has been requested; however, it cannot be guaranteed that the third party will grant such permission. Thus, LES is seeking to obtain a copy of the contract requested by AGNM in this request and will promptly provide it to AGNM when and if it is made available.

REQUEST FOR PRODUCTION #12

Provide copies of any documents in LES's possession which discuss the process used by the Urenco supplier that has been converting DUF_6 to DU_3O_8 on an industrial scale since 1984.

RESPONSE:

See LES's response to AGNM Interrogatory 15 and the objections stated therein, which are incorporated by reference in response to this request for production. LES Responses to AGNM Interrogatories at 9-10. Notwithstanding, and without waiving the objections set forth therein, LES again directs (as set forth in said response) the AGNM to NEF Environmental Report (Section 4.13) and the NRC Staff's Draft Environmental Impact Statement for the NEF (Sections 2.19, 4.2.14.3 to 4.2.14.5) for information regarding the deconversion process and its associated byproducts. Finally, the requested information also is set forth in the October 4, 2004, deposition of Bernard Duperret.

REQUEST FOR PRODUCTION #13

Provide copies of any documents in LES's possession which discuss whether the by products of the conversion process used by the Urenco supplier that has been converting DUF_6 to DU_3O_8 on an industrial scale since 1984 are sufficiently non-contaminated that they can be sold for unrestricted use.

RESPONSE:

See LES's response to AGNM Interrogatories 11 through 13 and the objections stated therein, which are incorporated by reference in response to this request for production. LES Responses to AGNM Interrogatories at 7-9. Notwithstanding, and without waiving the objections set forth therein, LES has provided copies of all such documents in its possession. In addition, LES directs the AGNM to the October 4, 2004, depositions of Bernard Duperret, Paul G. Schneider, and Robert Pratt.

REQUEST FOR PRODUCTION #14

Provide copies of any documents in LES's possession which discuss the disposal of DUF₆ from the Urenco plant.

RESPONSE:

LES references the following publicly available documents in response to this request:

- (1) NRC Memorandum dated April 9, 2004, from W.M. Troskoski to M.J. Virgilio, "NRC Foreign Trip Report In Office Review: Louisiana Energy Services Classified Integrated Safety Analysis Review and Site Tour of Urenco Gas Centrifuge Uranium Enrichment Facility." (ML041030432)
- (2) Five-page excerpt from the Attachment to Item (1) above related to depleted uranium (which, in turn, is excerpted from a Urenco March 16, 2004, presentation to NRC during NRC visit to Urenco Gas Centrifuge Uranium Enrichment Facility in Almelo, Netherlands). (ML041000131)

REQUEST FOR PRODUCTION #15

Provide copies of any documents in LES's possession which discuss the cost of the disposal of DUF₆ from the Urenco plant.

RESPONSE:

Any documents in the possession of LES that may be responsive to this request previously have been provided to the AGNM as part of LES's mandatory initial disclosures. See also "Notification of Service of Proprietary Information," June 4, 2004, pursuant to which LES served copies of the proprietary information requested by the AGNM in connection with AGNM TC-ii. Finally, AGNM is directed to the October 4, 2004, depositions of Bernard Duperret and Chris Chater.

REQUEST FOR PRODUCTION #16

Provide copies of any documents in LES's possession which discuss the by products of the conversion of DUF₆ from the Urenco plant to DU₃O₈.

RESPONSE:

See LES's response to AGNM Interrogatory 15 and the objections stated therein, which are incorporated by reference in response to this request for production. LES Responses to AGNM Interrogatories at 9-10. Notwithstanding, and without waiving the objections set forth therein, LES directs AGNM to the response to request for production #13, *supra*. AGNM also is directed to the October 4, 2004, depositions of Bernard Duperret, Robert Pratt, and Paul G. Schneider.

REQUEST FOR PRODUCTION #17

Provide copies of any documents in LES's possession that discuss the disposal of by products of the conversion of DUF₆ from the Urenco plant to DU₃O₈.

RESPONSE:

See LES's response to AGNM Interrogatories 11-13, and 15 and the objections stated therein, which are incorporated by reference in response to this request for production. LES Responses to AGNM Interrogatories at 7-10. Notwithstanding, and without waiving the objections set forth therein, LES directs AGNM to the response to request for production #13, *supra*. AGNM also is directed to the October 4, 2004, deposition of Chris Chater, as well as the proprietary document entitled "Project LES" at LES-PRO-00523 to LES-PRO-00581.

REQUEST FOR PRODUCTION #18

Provide copies of any documents in LES's possession which discuss whether the by products of the conversion of DUF₆ from the Urenco plant to DU₃O₈ will be sufficiently non-contaminated that they could be sold for unrestricted use.

RESPONSE:

See LES's response to AGNM Interrogatories 11-13 and the objections stated therein, which are incorporated by reference in response to this request for production. LES Responses to AGNM Interrogatories at 7-9. Notwithstanding, and without waiving the

objections set forth therein, LES directs AGNM to the response to request for production #13, *supra*. AGNM also is directed to the October 4, 2004, deposition of Bernard Duperret.

REQUEST FOR PRODUCTION #19

Provide copies of any workpapers and source documents for the discussions in Environmental Report Section 4.13.3.1.6, Costs Associated with UF₆ Tails Conversion and Disposal.

RESPONSE:

Any documents in the possession of LES that may be responsive to this request previously have been provided to the AGNM as part of LES's mandatory initial disclosures.

REQUEST FOR PRODUCTION #20

The statement is made at page 10.3-1 of the NEF SAR that the LLNL report is the most comprehensive assessment of DUF₆ disposition costs for alternative disposition strategies available in the public domain. Provide copies of all other assessments of DUF₆ disposition costs for alternative disposition strategies that have been prepared by or for LES or that are in LES's possession.

RESPONSE:

Any documents in the possession of LES that may be responsive to this request previously have been provided to the AGNM as part of LES's mandatory initial disclosures.

REQUEST FOR PRODUCTION #21

Provide copies of any documents that discuss LES's current plans for having a conversion plant in operation.

RESPONSE:

LES objects to this request on the grounds that it (1) seeks information that is not reasonably calculated to lead to the discovery of admissible evidence in this proceeding, and (2) seeks information outside the scope of any admitted AGNM contention. Specifically, the scope of contention AGNM TC-ii is limited to LES's use of information from (1) "the Urenco contract" and (2) LES cost estimates developed in connection with the Claiborne Enrichment

Center license application. *Louisiana Energy Servs., L.P. (National Enrichment Facility)*, LBP-04-14, 60 NRC __ (July 19, 2004) (slip op. at 2, Appendix A). In short, while DUF₆ deconversion costs constitute one aspect of depleted uranium disposition costs, "LES's current plans for having a conversion plant in operation" are not relevant to contention AGNM TC-ii, as admitted. Notwithstanding, and without waiving these objections, LES will review its files to identify any such documents in its possession that are responsive to this request and provide them promptly to the AGNM upon identification.

REQUEST FOR PRODUCTION #22

Provide copies of any documents that discuss LES's current plans for the date by which a conversion plant will be in operation.

RESPONSE:

See LES Response to Request for Production #21, *supra*, and the objections stated therein, which are incorporated by reference in response to this request for production. Notwithstanding, and without waiving these objections, LES will review its files to identify any such documents in its possession that are responsive to this request and provide them promptly to the AGNM upon identification.

REQUEST FOR PRODUCTION #23

Reference page 10.3-1 of the NEF SAR. Provide the source documents and workpapers for the conclusion that NEF will generate 132,942 MT of depleted uranium over a nominal 30 year operational period.

RESPONSE:

The issue which is the subject of this request is addressed in the Plant Fact Sheet (previously provided to the New Mexico Environment Department as LES-04333 to LES-04340), a copy of which will be provided via first-class mail no later than Wednesday, October 13, 2004.

REQUEST FOR PRODUCTION #24

Provide copies of the documents prepared by or for LES or in LES's possession that discuss the projected or anticipated operational life for the NEF.

RESPONSE:

This information is publicly available. See NEF Safety Analysis Report Section 1.2.4; NEF Environmental Report Sections 1.2, 1.2.4, and 8.2.

REQUEST FOR PRODUCTION #25

Provide copies of the documents prepared by or for LES or in LES's possession that analyze, assess or evaluate how LES will dispose of the conversion products if they are not of sufficient purity that they could be sold for unrestricted use.

RESPONSE:

See LES's response to AGNM Interrogatories 11-13 and the objections stated therein, which are incorporated by reference in response to this request for production. LES Responses to AGNM Interrogatories at 7-9. Notwithstanding, and without waiving the objections set forth therein, LES directs AGNM to the response to request for production #9, *supra*. AGNM also is directed to the October 4, 2004, depositions of Bernard Duperret and Paul G. Schneider.

REQUEST FOR PRODUCTION #26

Provide copies of the documents prepared by or for LES or in LES's possession that specify and quantify the additional costs that LES will incur if the conversion products are not of sufficient purity that they could be sold for unrestricted use.

RESPONSE:

See LES's response to AGNM Interrogatories 11-13 and the objections stated therein, which are incorporated by reference in response to this request for production. LES Responses to AGNM Interrogatories at 7-9. Notwithstanding, and without waiving the objections set forth therein, LES directs AGNM to the response to request for production #9,

supra. AGNM also is directed to the October 4, 2004, depositions of Bernard Duperret and Paul G. Schneider.

REQUEST FOR PRODUCTION #27

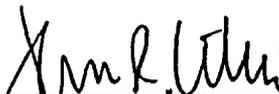
Provide copies of any analyses, assessments or evaluations of the potential market for the by products of the conversion of DUF₆ to DU₃O₈.

RESPONSE:

LES objects to this request on the grounds that (1) it is unduly broad and burdensome; (2) the AGNM has not demonstrated that the requested information could not have been obtained from publicly available sources; (3) it seeks information that is not reasonably calculated to lead to the discovery of admissible evidence in this proceeding, and (4) seeks information outside the scope of any admitted AGNM contention. Specifically, the scope of contention AGNM TC-ii is limited to LES's use of information from (1) "the Urenco contract" and (2) LES cost estimates developed in connection with the Claiborne Enrichment Center license application. *Louisiana Energy Servs., L.P. (National Enrichment Facility)*, LBP-04-14, 60 NRC __ (July 19, 2004) (slip op. at 2, Appendix A). Therefore, "analyses, assessments or evaluations of the potential market for the by products of the conversion of DUF₆ to DU₃O₈" are

not relevant to AGNM TC-ii, as admitted. Notwithstanding, and without waiving these objections, LES states that all documents relevant to this request previously have been provided to AGNM. It also is directed to the October 4, 2004, depositions of Bernard Duperret, Paul G. Schneider, and Robert Pratt.

Respectfully submitted,



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Dated at Washington, District of Columbia
this 12th day of October 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
)	
(National Enrichment Facility))	

CERTIFICATE OF SERVICE

I hereby certify that copies of the "APPLICANT'S OBJECTIONS AND RESPONSES TO REQUESTS FOR DOCUMENT PRODUCTION FROM ATTORNEY GENERAL OF NEW MEXICO" in the captioned proceeding have been served on the following by e-mail service, designated by **, on October 12, 2004 as shown below. Additional service has been made by deposit in the United States mail, first class, this 12th day of October 2004.

Chairman Nils J. Diaz
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Washington, DC 20555-0001

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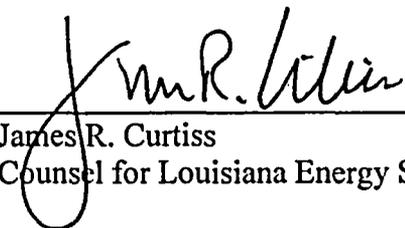
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