RAS 8915

November 24, 2004

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

November 24, 2004 (4:14pm)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

In the Matter of

Docket No. 70-3103

Louisiana Energy Services, L.P.
National Enrichment Facility

ASLBP No. 04-826-01-ML

SUPPLEMENTAL DISCLOSURE PURSUANT TO 10 CFR 2.704(a) ON BEHALF OF PETITIONERS NUCLEAR INFORMATION AND RESOURCE SERVICE AND PUBLIC CITIZEN

Pursuant to 10 CFR 2.704 and the Memorandum and Order of the Atomic Safety and Licensing Board dated October 20, 2004, Petitioners Nuclear Information and Resource Service and Public Citizen ("NIRS/PC") hereby make additional disclosure pursuant to 10 CFR 2.704. This disclosure is made based upon the information now reasonably available to NIRS/PC.

1. Documents from the files of NIRS and Public Citizen relevant to disputed issues alleged with particularity in the pleadings are produced as an attachment to this document.

2. Documents from the files of expert witnesses on behalf of NIRS/PC relevant to disputed issues alleged with particularity in the pleadings have been identified in the reports of those witnesses. Such items are publicly available or were produced in discovery in this case; in addition, certain items are produced with the expert reports.

3. A list of documents from the files of NIRS and Public Citizen that are withheld on grounds of privilege or other protection is attached to this submission.

Template=SECY-035

SECY-02

Respectfully submitted,

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November 24, 2004

Nuclear Information and Resource Service/Public Citizen
Documents withheld under claim of privilege or protection from disclosure
041124

Date:	Author:	Recipients:	Subject:	Protection:
041007	Sheehan	Lovejoy	LES; affidavit	WP
041009	Lovejoy	Rice	Fault report	WP
041009	Rice	Lovejoy	Fault report	WP
040111	Mariotte	Lovejoy	Areva-Urenco	ACP
041011	Mariotte	Lovejoy, Sheehan	Urenco Almelo, Gronau	ACP, WP
041012	Mariotte	Lovejoy, Sheehan	Nuclear Fuel articles	ACP, WP
041012	Mariotte	Lovejoy, Sheehan	Urenco Gronau	ACP, WP
041018	Lovejoy	Bredehoeft	Science article	WP
041018	Lovejoy	Rice	Fault report	WP
041019	Rice	Lovejoy	Fault report	WP
041019	Lovejoy	Rice	Fault report	WP
041019	Rice	Lovejoy	Fault report	WP
041020	Mariotte	Lovejoy, Sheehan	Brazil-UN agreement	ACP, WP
041022	Lovejoy	Bredehoeft	Disposal conditions	WP
041026	Mariotte	NIRS, Lovejoy, Boyd, Malherek, Sheehan	Brazil protests	ACP, WP
041026	Makhijani	Lovejoy	EPA Guidance	WP
041026	Lovejoy	Mariotte, Hauter, Boyd, Malherek, Hancock, Curran, Makhijani, Rice, Sheehan, Komanoff	USEC brief	ACP, WP
041028	Mariotte	Lovejoy	Editorial	ACP
041109	Mariotte	NIRS, Young, Buchanan, Colley, Price, Orr, Marida, Puchstein, Todd, Evan, Mattson, Besa, Muhley, Awan, Clark, Lovejoy	Piketon; DUF6 disposal	WAC, WP
041110	Malherek	Lovejoy, Boyd	Contentions, fault	ACP, WP
041011	Malherek	Lovejoy, Boyd, Hauter	Discovery motion	ACP, WP
041113	Makhijani	Lovejoy, Mariotte, Hauter, Boyd, Malherek, Hancock, Curran, Rice, Sheehan, Komanoff	Calculations of releases	WP
041116	Makhijani	Bredehoeft, Lovejoy	Disposal points	WP
041117	Mariotte	Lovejoy, Makhijani, Sheehan, WISE	Proliferation	ACP, WP

041117	Bredehoeft	Makhijani, Lovejoy	Statement	WP
041118	Makhijani	Lovejoy	Statement	WP
041118	Makhijani	Lovejoy	Statement	WP
041118	Lovejoy	Makhijani	Statement	WP
041118	Lovejoy	Bredehoeft, Makhijani	Statement	WP
041118	Bredehoeft	Lovejoy, Makhijani	Statement	WP
041119	Mariotte	Lovejoy, Sheehan	DU uses, UK	ACP, WP
041119	Makhijani	Bredehoeft, Lovejoy	Statement	WP
041119	Bredehoeft	Makhijani, Lovejoy	Statement	WP
041119	Lovejoy	Makhijani, Smith	Report	WP
041122	Boyd	Lovejoy	Legislation	ACP
041122	Boyd	Lovejoy	Legislation	ACP
041122	Boyd	Lovejoy	Legislation	ACP
041122	Mariotte	Lovejoy, Boyd	Legislation	ACP
041122	Komanoff	Lovejoy	SWU demand	WP
041122	Makhijani	Lovejoy, Smith, Chalmers	Report	WP
041122	Lovejoy	Makhijani	Report	WP
041123	Smith	Lovejoy	Report; Rice materials	WP

Note: Dates are stated as YYMMDD. ACP = attorney-client privilege. WP = work product; trial preparation materials.

CERTIFICATE OF SERVICE

Pursuant to 10 CFR § 2.305 the undersigned attorney of record certifies that on November 24, 2004, the foregoing Supplemental Disclosure Pursuant to 10 CFR 2.704(a) on behalf of Petitioners Nuclear Information and Resource Service and Public Citizen was served by electronic mail and by first class mail upon the following:

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>From: Rich Trout <biz@hobbsnews.com>
>Reply-To: sricdon@earthlink.net
>Organization: Hobbs News-Sun
>User-Agent: Mozilla/5.0 (Macintosh; U; PPC Mac OS X Mach-O; en-US;
>rv:1.7.2) Gecko/20040803
>X-Accept-Language: en-us, en
>To: sricdon@earthlink.net
>Subject: Sunday Hobbs story
>X-ELNK-AV: 0
>
>Study: nuclear energy can compete
>RICHARD TROUT
>
>NEWS-SUN
>
>A new study says the cost of running a nuclear power plant is
>comparable to operating a coal or natural gas plant, but not everyone
>is in agreement about the study's merits -- which strike at the heart
>of Lea County's future if a planned uranium enrichment plant lands here.
>
>While Louisiana Energy Services contends the findings confirm its
>statements regarding the need for a uranium enrichment plant near
>Eunice, one opponent of the project said the nuclear market is so weak
>that investors haven't built a new plant in 30 years. LES's proposed
>National Enrichment Facility, a $1.8 billion project near Eunice, would
>enrich uranium for the fuel rods used at nuclear power plants.
>
>*Nuclear a huge, profitable portion*
>
>According to the University of Chicago study, future nuclear power
>plants in the United States can be competitive with natural gas or coal
plants.
>The study found the cost of producing electricity at coal plants is $33
>to
>$41 per megawatt hour and, at gas-fired plants, is $35 to $45 per MWh,
>while new nuclear plants would have costs of $31 to $46 per MWh once
>early plant costs are absorbed.
>
>Nuclear power accounts for 20 percent of the nation's electricity
>supply, with coal at 50 percent and natural gas at 17 percent. There
>are 103 nuclear power plants in the country, and the Tennessee Valley
>Authority is aiming to restart production at its Brown's Ferry plant in
Alabama.
>
>The Dresden 1 Nuclear Power Station in Illinois was the first privately
>funded nuclear plant in the United States. It went online in 1959.
>
>Before a nuclear reactor accident occurred at Three Mile Island in
>March 1979, about 250 nuclear power plants were expected to begin
>operating in the years ahead.
>
>*No new nuke plants*
>
>Bill Magwood, director of nuclear energy at the U.S. Department of

>Energy, said the University of Chicago study found that one condition
>has to be met if nuclear power is going to be competitive with other energy
sources.
>
>That condition? Starting from scratch, Magwood said.
>
>"It's been 30 years since a new plant was built, so there's uncertainty
>about how long it will take to build and how well it will perform," he
>said. "Those uncertainties can't be dealt with until you build the
>first few nuclear plants. The ones that come later will be less
>expensive (to build)."
>
>A company such as Westinghouse learns a lot through the process of
>building the first complex facility, Magwood explained. By the time the
>company reaches its third or fourth plant, he said the costs of
>building a new plant decline dramatically thanks to this learning curve.
>
>Magwood also noted he's familiar with LES and its proposal to build an
>enrichment plant in New Mexico.
>
>"We think it is important to have a viable long-term supply (of
>enriched uranium), and we applaud the private sector for taking this on," he
said.
>
>As someone who is familiar with the costs of building new nuclear
>plants, LES president Jim Ferland said he agrees with the findings in
>the University of Chicago study. But he stressed nuclear power has more
>than just an economic advantage in meeting the nation's electricity needs.
>
>"Nuclear has a clear advantage over gas and coal in that it does not
>contribute to global warming," he said.
>
>Given these advantages, Ferland said there is some likelihood there
>will be a resurgence in nuclear power, but he noted it might be another
>five years before a new plant is constructed.
>
>In its application to the U.S. Nuclear Regulatory Commission, LES was
>conservative in its analysis of future demand. In other words, LES did
>not assume there will be a resurgence in nuclear power.
>
>"The National Enrichment Facility is needed because it provides a
>secure and diverse source of fuel for our power plants even if we don't
>have new nuclear construction," Ferland said. "But if you go and
>project a resurgence in nuclear, it just makes the case for the NEF that
much stronger."
>
>*Market questioned*
>
>Don Hancock, head of the Southwest Research and Information Center in
>Albuquerque, said no research study has ever dictated what types of
>power plants are built.
>
>"We haven't built new nuclear plants in this country in the last 30
>years, but we have built a lot of coal and natural gas plants in this
>country during that same period," he said. "Clearly, the market has
>been saying for the last 30 years that nukes are not economic in
>comparison to coal and natural gas, and that's just a fact."

>
>Because nuclear power is not economical, Hancock said, it needs huge
>government subsidies such as what you find in Sen. Pete Domenici's
>energy bill. And neither coal or natural gas plants have a government
>insurance policy in the Price Anderson Act -- another big subsidy for
>the nuclear energy market that provides liability protections, he said.
>
>"Sen. Domenici, who is a big supporter of nuclear power, even said
>himself there can't be one nuclear power plant built in this country
>unless the government does it," Hancock said.
>
>Ferland said he believes the public's wariness of nuclear energy is the
>main reason no plants have been built in a long time. But new plant
>designs have shortened the construction period and decreased the
>budgets to build new plants, he said.
>
>The current 36 month construction time is two to three years shorter
>than the construction times of 30 years ago, Ferland added.
>
>One point Ferland and Hancock did agree on had to do with the volatile
>nature of natural gas prices compared to coal and nuclear power.
>
>"Oil and gas prices can change pretty dramatically," Hancock said. "Gas
>prices are going to go up over the next few years, according to
>forecasters, whereas coal and enriched uranium is not going to change as
much."

****

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CINCINNATI ENQUIRER
http://www.enquirer.com/editions/2004/10/11/biz_uranium11.html

Monday, October 11, 2004

Uranium demand, prices see increase

After a decade, industry begins to rebound

By Robert W. Black
The Associated Press

DOUGLAS, Wyo. - Watching a computer screen, Pat Drummond monitors a complex system of pipelines and vats that produce 55-gallon drums of uranium, weighing 600 to 1,000 pounds each, ready to be shipped to nuclear power plants across the globe.

Drummond, who began mining at age 16 in his native Scotland, is among a dwindling number of workers in an industry that has been plagued by low prices for more than a decade, but is finally seeing a rebound.

"Mining's in my blood," Drummond said in a thick brogue during a recent afternoon at the Smith Ranch-Highland mine in east-central Wyoming. "I enjoy the challenge of uranium, and given the price wars of the last 15 years, it's been a challenge staying in the industry."

Prices are nearly triple what they were four years ago, and Cameco Corp., a Canadian firm that owns the last two active uranium mines in the United States, is stepping up exploration and production. The Saskatchewan firm holds a fifth of the world uranium market, but may soon be joined by other companies reopening or starting operations to meet rising demand.

Uranium produced at Smith Ranch is typically yellowish powder, or yellowcake, which is sent to other plants to be enriched and formed into pellets to fuel nuclear reactors. About 20 percent of America's electricity comes from steam created by nuclear fission.

Yellowcake prices were $7.10 per pound in December 2000 but have risen steadily and recently surpassed $20 for the first time since 1984.

In the 1940s, the U.S. government began buying large amounts of uranium in the effort to produce the world's first atomic bomb. After World War II, the Atomic Energy Commission began examining peaceful uses. The first privately funded nuclear energy plant came online in 1959 in Illinois.

By the 1970s, about 250 nuclear reactors were planned across the United

States - but then an accident in Pennsylvania changed all that.

"Three Mile Island hit, and starting in the 1980s, utilities started canceling plants," said David Miller, a Wyoming state lawmaker from Riverton and geologist with more than 25 years experience in uranium exploration and consulting. "The investing public, the lay public, everyone kind of turned on nuclear power at that time. The uranium market collapsed on all those canceled plants."

A second blow came when the Soviet Union fell apart, and enriched uranium removed from Russian bombs was blended down to reactor-grade fuel and dumped on the market. The third jolt occurred when the Clinton administration privatized a government-owned uranium-enrichment program, and 70 million pounds of yellowcake was unloaded on the market.

"You basically have had a long period of inventory liquidation, which pushed prices down to quite low levels, and during this time you also pushed production down," said Jeff Combs, president of Ux Consulting Co., of Roswell, Ga. Exploration also tapered off.

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Yahoo! Groups Links

- To visit your group on the web, go to:
  http://groups.yahoo.com/group/stoplesinnm/

- To unsubscribe from this group, send an email to:
  stoplesinnm-unsubscribe@yahoogroups.com

- Your use of Yahoo! Groups is subject to the Yahoo! Terms of Service.

Attached and pasted below, please find CCNS's Talking Points on the Draft Environmental Impact Statement for the Uranium Enrichment Facility Proposed by Louisiana Energy Services for Lea County, NM. Please use them as you see fit, particularly in tomorrow night's meeting on the draft EIS. We intend to write more extensive comments to submit in writing and we will share those as well.

We regret that we can't be there, but we're glad to help our friends be as effective as they can be.

Good luck tomorrow! We can totally win this one!

Amy

Talking Points on the Draft Environmental Impact Statement
For the Uranium Enrichment Facility Proposed by
Louisiana Energy Services for Lea County, NM
by Amy Williams, CCNS

In 2003, Louisiana Energy Services (LES) proposed the National Enrichment Facility (NEF) to be located near Eunice, New Mexico in Lea County, near the southeastern corner of the state. Uranium enrichment is a process by which natural uranium is separated into its component isotopes. Uranium-235, or enriched uranium, is used as fuel for nuclear reactors. Uranium-238, or depleted uranium, is waste.

In September 2004, the Nuclear Regulatory Commission (NRC), which is responsible for issuing an operating license for the facility, released a draft Environmental Impact Statement (DEIS), which is required under the National Environmental Policy Act (NEPA). Comments on the DEIS will be collected through a public meeting to be held in Eunice on October 14, 2004, and by mail or email through November 6, 2004.

The DEIS addresses the environmental impacts expected as a result of construction and operation of the facility, particularly their effects on land, air quality, surface water, ground water, ecological resources, socioeconomics, environmental justice, worker safety and public health and safety.

Concerned Citizens for Nuclear Safety provides the following talking points about the DEIS:

□ The statement of Purpose and Need for the facility, found in the Executive Summary of the DEIS, states that ³only about 15 and 14 percent of the enrichment services that were purchased by U.S. nuclear reactors in 2002 and 2003, respectively, were provided by enrichment plants located in the [U.S.].² (pg. xix). Later, the DEIS states, ³[United States Enrichment Corporation which operates uranium enrichment facilities in Portsmouth, Ohio and Paducah, Kentucky] provides approximately 56 percent of the U.S. enrichment market needs.² (pg. 1-4). This is an obvious discrepancy. We request that NRC not only clarify the amount of domestically produced enriched uranium currently used, but also indicate the specific foreign sources of the

enriched uranium on which the U.S. currently relies.

□ Assuming peak production at the NEF during the entire projected 30-year lifetime of the facility, a generous estimate, the NEF would produce 3,270,000 separative work units (SWUs) of enriched uranium per year. (pg. 2-6). This represents an average of approximately 24% of the total enriched uranium required for the U.S. as estimated by the Energy Information Agency. (pg. 1-4). This number will be far smaller considering that NEF will reach peak operating capacity for only 14 years, from 2013 to 2027. This means that, according to pg. 1-4, more than 20% of U.S. enriched uranium needs will continue to be fulfilled by foreign sources for at least 16 years during the lifetime of the facility. Given this information, please explain how NEF is anticipated to increase U.S. independence from foreign enriched uranium sources. Please provide a table showing the total estimated amount of enriched uranium that will be required for U.S. energy

production by year as compared to the amount that will be produced by NEF.

The DEIS states that nuclear generating capacity is going to increase by 2020, which would further dilute the effect that the NEF will have on creating U.S. energy independence. (pg. 4-73). What is the total yearly percentage of U.S. enriched uranium supply that the NEF is expected to produce?

□ LES has argued that impacts on the Eunice and Hobbs municipal water systems would be minimal given that the facility would use an average 72 acre-feet of water per year. This argument, while technically correct, is disingenuous. The DEIS states, the average and peak potable water requirements for operation of the proposed NEF would be approximately 63,423 gallons per day average and 539,000 gallons per day at peak operation. (2-14). Therefore, during 14 years of peak operation, from 2013 to 2027, NEF will be using nearly 604 acre-feet of water per year, according to the DEIS.

Although the DEIS estimates that the impacts of the NEF on the Eunice and Hobbs water supplies will be small, the DEIS does not clarify if this determination is made according to the 72 acre-feet per year average estimate, or 604 acre-feet per year peak estimate. The DEIS must include a detailed, yearly water usage plan for the NEF, incorporating the impacts of the NEF according to its actual usage and future water demand and availability.

□ Although the Claiborne Enrichment Facility, proposed for Homer, Louisiana, is referenced multiple times throughout the document, Section 2.2.2.1, Alternative Sites (pg. 2-34), does not address Homer, Louisiana as a potential site or the reasons its for being rejected. Please include Homer, Louisiana as a potential site for the NEF and an account of the reasons that it was rejected as a potential location for the NEF.

□ The Bellefonte, Alabama site was removed from consideration for location of the NEF because it would have necessitated relocating high-voltage transmission lines that cross the proposed site. (pg. 2-38). Similarly, the Lea County, New Mexico site would necessitate relocation of a high-pressure carbon dioxide pipeline that crosses the site. Why does this fact not remove the Lea County, NM site from consideration? How will this relocation be funded and what will the

environmental impacts from this relocation be?

□ In the analysis of Environmental Justice impacts of the proposed NEF, the DEIS states, ³It should be noted that for this analysis, the State was used as the area of geographic comparison.² (pg. 3-62). We request that the final EIS evaluate environmental justice issues in geographic comparison with national rates given that the NEF is a project that was considered for multiple sites nationwide, not only in the State of New Mexico. Residents of the State of New Mexico must be assured that the site was not chosen for its abnormally high minority and low-income populations, which in the area of influence, represents 48.3% and 20% of the population respectively. Compared with national averages of 30.9% and 12.4% respectively, it is clear that Lea County is home to a disproportionately large number of minority and low-income community members and thus will be impacted disproportionately by the construction and operation of the NEF. NRC must justify its claim on pg. 4-26 that environmental justice impacts would be small.

□ In Section 4.2.8.2, Operations: Employment and Economic Activity, the DEIS states, ³Ten percent of the positions are expected to be in management, 20 percent in professional occupations, 60 percent in various skilled positions and 10 percent in administrative positions.² (pg. 4-21). According to these percentages, the average 210 permanent operating employees would consist of 21 managers, 62 professional employees, 126 skilled employees and 21 administrators. The DEIS states that this is approximately 1% of the workforce in Lea, Andrews and Gaines Counties, and thus the NEF would have a moderate impact on the socioeconomics of the area.

However, as much as 60% of the workforce is expected to come from outside of the area of influence, according the DEIS, which states, ³The majority of these higher paying skilled jobs would be expected to be filled outside of the immediate area surrounding the proposed site, but within the [75-mile] region of influence....² (pg. 4-19). A 75-mile radius around the site would include Eddy and Chavez Counties in New Mexico and Cochran, Culberson, Davison, Ecktor, Hockley, Loving, Lynne, Martin, Midland, Reeves, Terry, Yoakum and Winkler Counties in Texas. Therefore, given that these counties may provide the majority of the workforce, they must be included in the area of socioeconomic impact, which may effect the 1% figure mentioned above and thus the impact estimated by NRC.

□ In Section 4.2.8.3, Employment and Economic Activity Mitigation Measures, the DEIS states, ³Educational programs coordinated by LES with local colleges would help develop a pool of qualified local workers.² (pg. 4-22). This measure is an effort to draw more highly skilled technical workers from the area. Please include any communiqué between local colleges and LES in developing these educational programs. Also, please document the capacity for these local colleges to train the workforce in nuclear materials handling and uranium enrichment processes. Are these local colleges prepared to handle such curriculum? If not, when will they be and how will those preparations be funded?

□ In its discussion of radiological shipments by truck, the DEIS mentions Envirocare in Utah and U.S. Ecology in Richland, Washington as two potential sites to which to ship the triuranium octaoxide (U3O8) produced as a result of conversion of depleted uranium hexafluoride at the

potential conversion facility at ConverDyne in Metropolis, Illinois. The DEIS does not indicate that negotiations between LES and any of these facilities are underway. Without the consent and participation of these facilities, there is no viable solution to the waste problem that NEF presents. The State of New Mexico, and the citizens it represents, has asked multiple times that an NRC operating license not be granted to LES unless a viable waste solution is presented.

A thorough, complete and feasible waste solution must be included in the final EIS, including all negotiations between LES and the facilities that will be converting and disposing of the large quantities of waste.

□ The DEIS mentions several times the possibility of locating a depleted uranium hexafluoride (DUF6) conversion facility near the NEF. (pg. 2-30). We believe that this option is far too uncertain to be considered an option for conversion. Further, such a requirement would not fulfill the requirements of the State of New Mexico, as the waste from the NEF would remain in New Mexico, but moved offsite. This proposal is not a sufficient conversion option and should not be considered further.

□ The DEIS states that the evaporative ponds and retention basins around the site will create pools of perched water in the ground beneath the site. (pg. 4-13). The water is not expected to migrate and LES estimates, optimistically, that most of it will be absorbed in the root systems of vegetation in the area. However, will there be a method for monitoring the perched water created by these ponds? NRC must include this information in Section 6, Environmental Measurements and Monitoring Programs.

□ The DEIS states, ³Each year, the proposed NEF would submit a summary report of the Environmental Sampling Program to NRC.² (pg. 6-14). How will this information be made available to the State of New Mexico and the public? How will the State of New Mexico and the public participate in environmental oversight of the facility?

□ The DEIS states, ³The limits [on chemical discharges] would be specified in the U.S. Environmental Protection Agency (EPA) Region 6 National Pollutant Discharge Elimination System (NPDES) General Discharge Permits as well as the New Mexico Environment Department/Water Quality Bureau-Water Discharge Permit/Plan. Therefore this [DEIS] does not specify administrative action levels for physiochemical constituents.² (pg. 6-15). LES must consult with EPA Region 6 and the New Mexico Environment Department prior to the production of the final EIS, determine the administrative action levels for physiochemical constituents according to each agency and report those levels for NRC to consider when determining whether to license this facility. Without this information, impacts of the NEF on surface and ground water resources is incomplete, and therefore NRC cannot adequately determine whether to license the facility.

□ The DEIS states regarding effluent monitoring, which includes air and water, ³Corrective actions would be instituted when an administrative action level is exceeded for any of the measured parameters....² (pg. 6-19). What agency will oversee these corrective actions and what will these corrective actions be? Is there a mechanism in place for an operating license to be suspended or revoked? Please clarify what safeguards are in place should environmental

emissions of radioactive and hazardous constituents exceed federal and/or state regulatory standards.

□ Would environmental monitoring at the NEF site continue beyond decontaminating and decommissioning? Who would be responsible for long-term stewardship of the site?

□ In Section 7, Cost-Benefit Analysis (pg. 7-5), the DEIS states that DUF6 disposition will cost approximately $5.50 per 2.2 pounds or $731 million in 2002 dollars. In order to gauge accurately the benefit of the NEF, NRC must also include the amount of enriched uranium estimated to be produced by the facility and the amount of money LES anticipates that it will earn through its sale per pound.

□ The DEIS indicates that ConverDyne and U.S. Ecology were not consulted in the production of the DEIS. (pg. 8-3) If their facilities are considered options for conversion and disposal, should they not be consulted in the production of this document? They must be consulted in the production of the final EIS and their response to LES's proposals must be included.

□ The DEIS overlooks a critical comment received during its scoping period, which recommends that LES and NRC consult the Western Interstate Energy Board, which is responsible for communication and cooperation among its membership with specific regard to the development and management of nuclear energy products. (*Scoping Summary Report,* pg. 11) Why was this Board not consulted? We reiterate the request that the Board be consulted and their analysis of the proposal be included in the final EIS.

Many issues that must be considered before the NEF is licensed, including security and local emergency preparedness, will be included in the Safety Evaluation Report to be released in June 2005.

Written comments can be submitted to:

Chief, Rules and Directives Branch
Division of Administrative Services
Mailstop: T-6D59
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

nrcep@nrc.gov *October 13, 2004*

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Yahoo! Groups Links

- To visit your group on the web, go to:
  http://groups.yahoo.com/group/stoplesinnm/
- To unsubscribe from this group, send an email to:
  stoplesinnm-unsubscribe@yahoogroups.com
- Your use of Yahoo! Groups is subject to the Yahoo! Terms of Service.

>From today's Federal Register:

Notice of Intent To Prepare an Environmental Impact Statement for the Proposed USEC American Centrifuge Plant
http://a257.g.akamaitech.net/7/257/2422/06jun20041800/edocket.access.gpo.gov/2004/04-23134.htm

The *other* centrifuge uranium enrichment plant:

USEC, Inc. (American Centrifuge Plant); Notice of Receipt of Application for License; Notice of Availability of Applicant's Environmental Report; Notice of Consideration of Issuance of License; and Notice of Hearing and Commission Order

http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=2004_register&docid=fr18oc04-102

>From today's Federal Register:

http://a257.g.akamaitech.net/7/257/2422/06jun20041800/edocket.access.gpo.gov/2004/04-25169.htm

[Federal Register: November 12, 2004 (Volume 69, Number 218)]
[Notices]
[Page 65468-65470]
>From the Federal Register Online via GPO Access [wais.access.gpo.gov]
[DOCID:fr12no04-106]

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NUCLEAR REGULATORY COMMISSION

[Docket No. 70-7005]

In the Matter of Waste Control Specialists, LLC, Order Modifying Exemption From 10 CFR Part 70

AGENCY: Nuclear Regulatory Commission.

ACTION: Issuance of order to modify Waste Control Specialists, LLC's exemption from requirements of 10 CFR part 70.

FOR FURTHER INFORMATION CONTACT: James Park, Environmental and Performance Assessment Directorate, Division of Waste Management and Environmental Protection, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555- 0001. Telephone: (301) 415-5835, fax number: (301) 415-5397; e-mail: JRP@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

Pursuant to 10 CFR 2.106, the Nuclear Regulatory Commission (NRC) is providing notice in the Matter of Waste Control Specialists, LLC (WCS) of the issuance of an order to modify WCS's exemption from the requirements of 10 CFR part 70.

II. Further Information

I

In letters dated August 6, 2003, and March 15, 2004, WCS requested

a modification to its exemption from certain NRC regulations relative to the possession of special nuclear material (SNM). A license pursuant

to 10 CFR part 70 issued by NRC is required for quantities of SNM in excess of the limits in 10 CFR 150.11. WCS is requesting a modification

to its exemption from licensing under part 70 for possession of greater than the part 150 SNM limits. The NRC issued the initial exemption to WCS in November 2001.

WCS operates a low-level waste (LLW) and mixed waste (MW) storage and treatment facility in Andrews County, Texas. The facility also disposes of hazardous waste. Texas is an Agreement State. This facility is licensed by the State of Texas Department of Health (TDH) under a 10 CFR part 30 equivalent radioactive materials license (RML). The facility is also licensed by the Texas Commission on Environmental Quality (TCEQ) to treat and dispose of hazardous waste. In 1997, WCS began accepting Resource Conservation and Recovery Act (RCRA) and Toxic Substance Control Act (TSCA) wastes for treatment, storage, and disposal. Later that year, WCS received a license from TDH for treatment and storage of MW and LLW. The MW and LLW streams may contain quantities of SNM.

II

Section 70.3 of 10 CFR part 70 requires persons who own, acquire, deliver, receive, possess, use, or transfer SNM to obtain a license pursuant to the requirements in 10 CFR part 70. The licensing requirements in 10 CFR part 70 apply to persons in Agreement States possessing greater than critical mass quantities as defined in 10 CFR 150.11.

Pursuant to 10 CFR 70.17(a), ``the Commission may * * * grant such exemptions from the requirements of the regulations in this part as it determines are authorized by law and will not endanger life or property or the common defense and security and are otherwise in the public interest.''

On November 21, 2001, the NRC transmitted an Order to WSC. The Order was published in the Federal Register on November 15, 2001 (66 FR 57489). The Order exempted WCS from certain NRC regulations and permitted WCS, under specified conditions, to possess waste containing SNM in greater quantities than specified in 10 CFR part 150, at WCS's storage and treatment facility in Andrews County, Texas, without obtaining an NRC license pursuant to 10 CFR part 70. The methodology used to establish these limits is discussed in the 2001 Safety Evaluation Report (SER) that supported the 2001 Order.

[[Page 65469]]

III

The NRC staff considers that the appropriate action is to modify WCS's exemption. Currently, WCS is exempted from the requirements of 10

CFR part 70, including the requirements for an NRC license in 10 CFR 70.3, for SNM within the restricted area at WCS's site. This modification specifically would allow WCS to use such chemical reagents

as it deems necessary for treatment and stabilization of mixed waste containing SNM provided that the SNM mass does not exceed specified concentration limits. The WCS would continue to be restricted from using magnesium oxide in stabilization, per Condition 2 of the Order. Therefore, WCS's exemption is modified as follows:

1. Concentrations of SNM in individual waste containers and/or during processing must not exceed the following values:

SNM isotope	Operational limit (gram SNM/ gram waste)	Measurement uncertainty (gram SNM/gram waste)
U-233	4.7E-04	7.1E-05
U-235 (10 percent enriched)	9.9E-04	1.5E-04
U-235 (100 percent enriched)	6.2E-04	9.3E-05
Pu-239	2.8E-04	4.2E-05
Pu-241	2.2E-04	3.2E-05

When mixtures of these SNM isotopes are present in the waste, the sum-of-the-fractions rule, as illustrated below, should be used.
[GRAPHIC] [TIFF OMITTED] TN12NO04.000

The measurement uncertainty values in column 3 above represent the

maximum one-sigma uncertainty associated with the measurement of the concentration of the particular radionuclide.

The SNM must be homogeneously distributed throughout the waste. If

the SNM is not homogeneously distributed, then the limiting concentrations must not be exceeded on average in any contiguous mass of 600 kilograms.

2. Waste must not contain ``pure forms'' of chemicals containing carbon, fluorine, magnesium, or bismuth in bulk quantities (e.g., a pallet of drums, a B-25 box). By ``pure forms,'' it is meant that mixtures of the above elements such as magnesium oxide, magnesium carbonate, magnesium fluoride, bismuth oxide, etc. do not contain other

elements. The presence of the above materials will be determined and documented by the generator, based on process knowledge, or testing.

3. Waste accepted must not contain total quantities of beryllium, hydrogenous material enriched in deuterium, or graphite above one tenth

of one percent of the total weight of the waste. The presence of the above materials will be determined and documented by the generator, based on process knowledge, or testing.

4. Waste packages must not contain highly water soluble forms of SNM greater than 350 grams of U-235 or 200 grams of U-233 or 200 grams of Pu. The sum of the fractions rule will apply for mixtures of U-233, U-235, and Pu. When multiple containers are processed in a larger container, the total quantity of soluble SNM shall not exceed these mass limits. Highly soluble forms of SNM include, but are not limited to: uranium sulfate, uranyl acetate, uranyl chloride, uranyl formate, uranyl fluoride, uranyl nitrate, uranyl potassium carbonate, uranyl sulfate, plutonium chloride, plutonium fluoride, and plutonium nitrate.

The presence of the above materials will be determined and documented by the generator, based on process knowledge or testing.

5. Processing of mixed waste containing SNM will be limited to chemical stabilization (i.e., mixing waste with reagents). For batches with more than 600 kilograms of waste, the total mass of SNM shall not exceed the concentration limits in Condition 1 times 600 kilograms of waste.

6. Prior to shipment of waste, WCS shall require generators to provide a written certification containing the following information for each waste stream:

a. Waste Description. The description must detail how the waste was generated, list the physical forms in the waste, and identify uranium chemical composition.

b. Waste Characterization Summary. The data must include a general description of how the waste was characterized (including the volumetric extent of the waste, and the number, location, type, and results of any analytical testing), the range of SNM concentrations, and the analytical results with error values used to develop the concentration ranges.

c. Uniformity Description. A description of the process by which the waste was generated showing that the spatial distribution of SNM must be uniform, or other information supporting spatial distribution.

d. Manifest Concentration. The generator must describe the methods to be used to determine the concentrations on the manifests. These methods could include direct measurement and the use of scaling factors. The generator must describe the uncertainty associated with sampling and testing used to obtain the manifest concentrations.

WCS shall review the above information and, if adequate, approve in writing this pre-shipment waste characterization and assurance plan before permitting the shipment of a waste stream. This will include statements that WCS has a written copy of all the information required above, that the characterization information is adequate and consistent with the waste description, and that the information is sufficient to demonstrate compliance with Conditions 1 through 4. Where generator process knowledge is used to demonstrate compliance with Conditions 1, 2, 3, or 4, WCS shall review this information and determine when testing is required to provide additional information in assuring compliance with the

Conditions. WCS shall retain this information as required by the State of Texas to permit independent review.

[[Page 65470]]

At the time waste is received, WCS shall require generators of SNM waste to provide a written certification with each waste manifest that states that the SNM concentrations reported on the manifest do not exceed the limits in Condition 1, that the measurement uncertainty does not exceed the uncertainty value in Condition 1, and that the waste meets Conditions 2 through 4.

WCS shall require generators to sample and determine the SNM concentration for each waste stream at the following frequency: (a) If the concentrations are above one tenth the SNM limits (Condition 1), once per 600 kg, (b) if the concentrations are below one tenth and greater than one hundredth of the SNM limits, once per 6,000 kg, and (c) if the concentrations are below one hundredth of the SNM limits, once per 60,000 kg.

If the waste is determined to be not homogeneous (i.e., maximum, which cannot exceed the limits in Condition 1, and minimum testing values performed by the generator are greater than five times the average value), the generator shall sample and determine the SNM concentration once per 600 kg thereafter, regardless of SNM concentration. In this case, samples shall be a composite consisting of four uniformly sampled aliquots.

The certifications required under these conditions shall be made in writing and include the statement that the signer of the certification understands that this information is required to meet the requirements of the NRC and must be complete and accurate in all material respects.

7. WCS shall sample and determine the SNM concentration for each waste stream at the following frequency: (a) If the concentrations are above one tenth the SNM limits (Condition 1), once per 1,500 kg for the first shipment and every 6,000 kg thereafter, (b) if the concentrations are below one tenth and greater than one hundredth of the SNM limits, once per 20,000 kg for the first shipment and every 60,000 kg thereafter, and (c) if the concentrations are below one hundredth of the SNM limits, once per 600,000 kg. This confirmatory testing is not required for waste to be disposed of at DOE's WIPP facility.

If the waste is determined to be not homogeneous (i.e., maximum and minimum testing values performed by the generator are greater than five times the average value), WCS shall sample and determine the SNM concentration once per 1,500 kg for the first shipment and every 6,000

kg thereafter, regardless of SNM concentration. In this case, samples shall be a composite consisting of four uniformly sampled aliquots.

8. WCS shall notify the NRC, Region IV office within 24 hours if any of the above Conditions are violated. A written notification of the event must be provided within 7 days.

9. WCS shall obtain NRC approval prior to changing any activities associated with the above Conditions.

IV

Based on the staff's evaluation, the Commission has determined, pursuant to 10 CFR 70.17(a), that the exemption as described above at the WCS facility is authorized by law, will not endanger life or property or the common defense and security and is otherwise in the public interest. Accordingly, by this Order, the Commission hereby grants this exemption subject to the above conditions. The exemption will become effective after the State of Texas has incorporated the above conditions into WCS's RML.

Pursuant to the requirements in 10 CFR part 51, the Commission has published an Environmental Assessment (EA) for the proposed action wherein it has determined that the granting of this exemption will have no significant impacts on the quality of the human environment. This finding was noticed in the Federal Register on October 20, 2004 (69 FR 61697).

V

As of October 25, 2004, the NRC initiated an additional security review of publicly available documents to ensure that potentially sensitive information is removed from the ADAMS database accessible through the NRC's Web site. Interested members of the public should check the NRC's web pages for updates on the availability of documents through the ADAMS system.\1\

\1\ The requests for modifying the Order will be available for inspection at NRC's Public Electronic Reading Room at http://www.nrc.gov/reading-rm/adams.html using the ADAMS Accession Nos. ML032590937 and ML041350224. The NRC staff's request for additional information, its EA, and its SER for this action will be available at the above Web site using the ADAMS Accession Nos. ML032731010, ML042250451, and ML042250362, respectively.

Dated at Rockville, Maryland this 5th day of November 2004.

For the Nuclear Regulatory Commission.
Jack R. Strosnider,
Director, Office of Nuclear Material Safety and Safeguards.
[FR Doc. 04-25169 Filed 11-10-04; 8:45 am]

BILLING CODE 7590-01-P

Here are the 4 latest postings to the Institute for Energy and Environmental Research web site, www.ieer.org. We hope they are useful to you. Comments are welcome. Apologies for multiple postings. Regards, Lisa Ledwidge, IEER

Testimony before the National Academy of Sciences Committee on the Radiation Exposure Screening and Education Program
http://www.ieer.org/comments/fallout/nastestimboise.html
November 11, 2004

Cash Crop on the Wind Farm
http://www.ieer.org/sdafiles/12-4.pdf
PDF, 977kB
Science for Democratic Action, Volume 12 Number 4
October 2004

What the DOE Knows it Doesn't Know about Grout
Serious Doubts Remain About the Durability of Concrete Proposed to Immobilize High-Level Nuclear Waste in the Tank Farms at the Savannah River Site and other DOE Sites
http://www.ieer.org/reports/srs/grout.pdf
PDF, 188kB
October 18, 2004

Uranium Enrichment: Just Plain Facts to Fuel an Informed Debate on Nuclear Proliferation and Nuclear Power
http://www.ieer.org/reports/uranium/enrichment.pdf
PDF, 2MB
October 15, 2004

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