



Department of Energy
Washington, DC 20585
July 25, 2002

Mr. Martin J. Virgilio
Director, Office of Nuclear Material
Safety and Safeguards
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dear Mr. Virgilio:

Thank you for inviting the Department of Energy to comment on the general policy issues raised by the Louisiana Energy Services (LES) in preparation for its enrichment plant license application. Given the proximity to the deadline, the Department is constrained to comment only on the overarching issues. We would, however, welcome the opportunity to address these or other subjects in greater detail if given more time to respond. With regard to:

Issue 1: Analysis of Need and No Action Alternative under National Environmental Policy Act (NEPA): The Department has concluded that nuclear energy will continue to play a critical future role in powering the American economy. The *National Energy Policy* estimates that electric utilities must increase capacity by at least 50 percent to keep up with demand in the next 2 decades. Nuclear utilities must increase proportionately if we are to maintain a balance between economic growth and protecting the environment from greenhouse gases.

Uranium enrichment is a critical step in the production of nuclear fuel. Within the past two years, domestic uranium enrichment has fallen from a capacity greater than domestic demand to a level that is less than half of domestic requirements. If the trend continues, 80 percent of projected demand in 2020 for nuclear power could be fueled from foreign sources.

In interagency discussions, led by the National Security Council, concerning the domestic uranium enrichment industry, there was a clear determination that the United States should maintain a viable, competitive, domestic uranium enrichment industry for the foreseeable future. The recent agreement between the Department and USEC Inc. reflects that policy objective of encouraging private sector investment in new uranium enrichment capacity. The Department firmly believes that there is sufficient domestic demand to support multiple domestic enrichers and that competition is important to maintain a healthy industry.

Having said the above, however, it is not the Department's intent to opine on the Nuclear Regulatory Commission's responsibilities under NEPA.

LES-02312



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LES Exhibit 31

Issue 5: Foreign Ownership: In its dialogue with the three Allied government partners in Urenco, Ltd. (Great Britain, The Netherlands, and Germany), the U.S. Government has expressed support for consideration by Urenco to partner with a U.S. company or companies for the purpose of transferring Urenco technology to new U.S. commercial uranium enrichment facilities. The following six talking points document the U.S. Government's concerns and are a matter of record.¹

- "Maintaining a reliable and economical U.S. uranium enrichment industry is an important U.S. energy security objective.
- The U.S. Government supports the deployment of Urenco gas centrifuge technology in new U.S. commercial uranium enrichment facilities as a means of maintaining a reliable and economical U.S. uranium enrichment industry.
- Existing Department of Energy nuclear sites could be made available to facilitate timely licensing of a new U.S. commercial uranium enrichment facility and the facilities to build Urenco centrifuges in the U.S.
- The U.S. would place a high priority on ensuring nuclear nonproliferation and safeguards are in place and that protections for public health, safety, and the environment are maintained.
- The U.S. Government has encouraged USEC Inc. and other U.S. companies to explore with Urenco mutually viable economic terms or partnership arrangements for the purpose of transferring Urenco technology to a new U.S. commercial uranium enrichment facility.
- The U.S. Government would appreciate [the three Allied government's] support and encouragement for partnerships between U.S. companies and Urenco Limited to provide technology on economically viable terms for a new, economically competitive and reliable uranium enrichment plant in the United States utilizing Urenco gas centrifuge technology."

Issue 6: Tails Disposition: There has been no formal determination by NRC that depleted uranium is low-level radioactive waste for purposes of Section 3113 of the 1996 USEC Privatization Act. Consequently, the Department is not obligated to accept it for disposal unless and until NRC makes such a determination.

However, in view of the Department's plan to build depleted uranium disposition facilities and the critical importance the Department places on maintaining a viable domestic uranium enrichment industry, the Department acknowledges that Section 3113 may constitute a "plausible strategy" for the disposal of depleted uranium from the private sector domestic uranium enrichment plant license applicants and operators. The procedures and costs for this potential

¹ Unclassified except from U.S. Department of State cable SECSTATE WASHDC 212326Z DEC 01 (NOTAL).

service are yet to be determined. The Department notes that Section 3113 (3) provides for reimbursement in an "amount equal to the Secretary's cost, including a pro rata share of any capital costs." Unlike Section 3113 (2), the reimbursement for the recovery of the costs for disposal of depleted uranium is not capped by the amount charged by commercial, State, regional or interstate compact entities for disposal services.

I appreciate the opportunity to comment on these very important issues. The Department is committed to working with NRC, industry, and other key stakeholders to facilitate the commercial deployment of advanced uranium enrichment technology in the United States. If you have any additional questions, please contact me or Mr. Larry Brown of my staff, at (202) 586-0843.

Sincerely,



William D. Magwood, IV, Director
Office of Nuclear Energy, Science
and Technology