

February 4, 2005

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

February 4, 2005 (2:33pm)

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

OUTLINE SUMMARIES SUBMITTED ON BEHALF OF
NUCLEAR INFORMATION AND RESOURCE SERVICE AND PUBLIC CITIZEN

Preliminary statement

The following Outline Summaries are submitted on behalf of Nuclear Information and Resource Service and Public Citizen, Intervenors herein ("NIRS/PC"), in pursuant to the orders of the Atomic Safety and Licensing Board (the "Board"), dated December 23, 2004, and December 30, 2004.

Summaries

a. Outline summary on contention EC-1:

1. Contention: ER, DEIS do not contain a complete or adequate assessment of impacts of the project on ground and surface water.
2. Expert witness (George Rice):
 - a. Alluvial water is used near the site.
 - b. LES has not determined how much water would infiltrate from the NEF into alluvium.
 - c. LES has not determined hydraulic properties of alluvial, shallow materials.
 - d. Ground water in alluvium not adequately investigated. Two boreholes indicated moisture. Alluvial groundwater occurs at nearby sites.
 - e. DEIS erroneously assumes no recharge from surface; inadequately explains moisture

that was found.

f. LES and NRC are in error, claiming no recharge and no groundwater in the alluvium.

g. Best explanation is episodic recharge.

h. NEF basins, septic systems may recharge alluvium, as "buffalo wallow" playas do elsewhere.

i. Discharge point for water at alluvial/Chinle contact not identified.

j. Time of flow to alluvial/Chinle discharge point not calculated.

k. Radioisotope dating not applied to moisture in vadose zone.

l. Fractures, fast flow paths from alluvium to Chinle or from Chinle to Santa Rosa were not investigated. LES, NRC erroneously state that fractures need not be investigated due to few observations of fractures, dryness of Chinle, low measured permeability.

m. DEIS erroneously assumes Chinle has no fractures or fast flow paths.

n. Laboratory tests and one slug test are insufficient to determine permeability.

o. Fractures are present in Chinle. (Holt report).

p. Chinle may be subject to episodic recharge.

q. NEF will generate substantial discharge, and some will enter shallow alluvium, flow to surface of Chinle and flow along contact, some may penetrate to water bearing units at 220 feet, 600 feet, 1100 feet. LES, NRC should have evaluated this flow, possible discharge points.

r. Age of water in Chinle and Santa Rosa not determined.

s. Santa Rosa not adequately investigated. Santa Rosa is used as a water source.

t. Monitoring wells in Santa Rosa insufficient.

u. LES estimates of leakage from NEF are inadequate.

v. LES, NRC disagree on fate of leakage.

- w. Lined basins are known to leak for several reasons.
- x. DEIS does not estimate probability of leakage of liners of TEEB, UBS stormwater retention basin.
- y. LES, NRC are not specific enough about their monitoring plans.
- z. Certain hazardous constituents are omitted from monitoring.

Remedies: Board ruling identifying inadequacies of DEIS, directing consideration of omitted matters in final EIS.

b. Outline summary on contention EC-2:

1. Contention: ER, DEIS do not adequately assess the potential environmental impacts of the proposed NEF on water supplies in the area.

2. Expert testimony (George Rice):

- a. Comparison of the water use of the proposed NEF with the amount of water stored in the Ogallala Aquifer in New Mexico is not a scientifically relevant measurement.
- b. Effects of NEF water usage would be confined to Ogallala near Hobbs Well Field.
- c. NRC has not shown in the DEIS how pumpage for the NEF would affect water levels and long-term productivity in the Hobbs Well Field or the Lea County Underground Water Basin.
- d. Groundwater in Lea County is being pumped faster than recharged.
- e. City of Hobbs has no projection of water use or availability in decades ahead.

Remedies: Board ruling identifying inadequacies of DEIS, directing consideration of omitted matters in final EIS.

c. Outline summary on contention EC-4:

1. Contention: ER, DEIS fail to discuss the environmental impacts of construction and operation of a conversion plant for depleted uranium hexafluoride waste.

2. Expert witness (Dr. Arjun Makhijani):

- a. Initial ER fails to refer to deconversion. Revised ER refers to Claiborne EIS, DOE EISs for Paducah, Portsmouth plants.
- b. DEIS assumes deconversion plant would have same process and deconversion product as the two DOE plants.
- c. DEIS assumes that impacts of deconversion would be as described for DOE plants.
- d. No DOE or NRC restrictions exist that apply to free release of contaminated HF or CaF_2 .
- e. Use of the anhydrous HF process would cause enhanced impacts that should be analyzed.
- f. LES has the preferred option, as to deconversion products, of DU_3O_8 . LES has not decided on its preferred deconversion process.
- g. There are important trade-offs requiring additional analysis. The AHF process is not in large scale use. Its use will affect environmental impacts from operation and transportation. Accident impacts will be greater due to higher volatility. DOE EISs do not measure such impacts.
- h. There are trade-offs requiring additional analysis of alternative deconversion products. Airborne emissions from conversion facilities will differ depending on the process and the deconversion product (DUO_2 versus DU_3O_8). The choice of DUO_2 generates more highly contaminated waste water than DU_3O_8 . These impacts have not been measured. Choice of deconversion product will look to disposal performance.
- i. In view of the alternatives with regard to deconversion product and process, and

uncertainties regarding use at the required scale, the impacts presented in the DOE PEIS and the Paducah and Portsmouth EISs do not necessarily bound the impacts of deconversion facilities for the NEF.

- j. Between the time of the PEIS in 1999 and the DOE site-specific EISs in 2004, the process changed so that the consequences of a chemical accident increased.
- k. The DOE PEIS does not bound all transportation accidents (e.g., anhydrous ammonia shipments).
- l. It should be assumed that HF from a deconversion plant is low level radioactive waste.

Remedies: Board ruling identifying inadequacies of DEIS, directing consideration of omitted matters in final EIS.

d. Outline summary on contention EC-7:

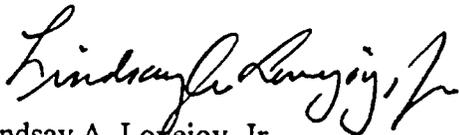
- 1. Contention: ER does not adequately describe or weigh the impacts and costs of the NEF, in that it erroneously assumes a need for the NEF, uses erroneous projections, fails to show how LES would effectively enter the market and contribute some public benefit.
- 2. Expert witness (Michael F. Sheehan):
 - a. LES's (and the DEIS's) showing of need is based upon inadequate economic analysis which omits the costs of production of enrichment services and ignores the price of enrichment.
 - b. LES (and the DEIS) limit the supply in their projections to what they term "cost-competitive" but fail to support such judgments.
 - c. LES (and the DEIS) omit to consider sources of supply for various unsupported reasons (e.g., Russian sources, various gaseous diffusion plants).
 - d. Entry of the NEF into the enrichment market is not likely to lead to the presence

of two low-cost domestic enrichment plants, operated by LES and USEC.

- e. Entry of the NEF into the enrichment market is not likely to enhance national security.
- f. Entry of the NEF into the enrichment market would not enhance security of supply for U.S. utilities.
- g. Contracts made by LES, and those in negotiation, do not demonstrate net benefits to the public.

Remedies: Board ruling identifying inadequacies of DEIS, directing consideration of omitted matters in final EIS.

Respectfully submitted,



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February 4, 2005

CERTIFICATE OF SERVICE

Pursuant to 10 CFR § 2.305 the undersigned attorney of record certifies that on February 4, 2005, the foregoing Outline Summaries submitted on behalf of 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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