

February 25, 2005

Mr. Rod Krich, Vice President  
Licensing, Safety, and Nuclear Engineering  
Louisiana Energy Services  
2600 Virginia Avenue NW, Suite 610  
Washington, DC 20037

SUBJECT: FINAL MEMORANDUM OF AGREEMENT AND TREATMENT PLAN FOR THE  
PROPOSED LOUISIANA ENERGY SERVICES NATIONAL ENRICHMENT  
FACILITY

Dear Mr. Krich:

As you are aware, Louisiana Energy Services (LES), proposes to construct and operate the National Enrichment Facility (NEF), a gas centrifuge uranium enrichment facility, near Eunice, NM. By letter dated February 17, 2004, the U.S. Nuclear Regulatory Commission (NRC) staff initiated the consultation process required by Section 106 of the National Historic Preservation Act, with the State of New Mexico Department of Cultural Affairs, Historic Preservation Division, State Historic Preservation Office and with regional Federally recognized Indian tribes.

In September 2003, Western Cultural Resource Management Inc. (WCRM), a LES contractor, performed a cultural resource inventory of the proposed project area. All portions of the Area of Potential Effect (APE) were included in the study area. During the inventory, seven prehistoric archeological sites were identified, with several of these sites occurring in the APE. The APE consists of: the proposed site area, including permanent and temporary building(s) footprints; parking and lay-down areas; and all site access roads. The proposed NEF site is located on land currently owned by the State of New Mexico. However, as part of a land exchange process involving the State, Lea County, and LES, the land for the proposed NEF would be deeded to LES. This land exchange process would be considered an adverse effect to the seven prehistoric archeological sites identified.

As a consequence of the findings of adverse effects, on November 2, 2004, the NRC staff requested comments on a draft Memorandum of Agreement and Treatment Plan that outline agreed-upon measures that LES would take to avoid, minimize, or mitigate these adverse effects. Based on comments received, the Agreement (Enclosure 1) and Treatment Plan (Enclosure 2) have been revised accordingly and are hereby provided to you in their final form.

As LES is identified as a signatory party on the Agreement, the NRC staff requests that the appropriate LES official sign and date the Agreement in the designated location. By signing, LES is agreeing to fulfill the requisite stipulations in the Agreement. The NRC staff requests that the signed original of the Agreement (as provided) be returned to the NRC within 14 days of LES's receipt of this transmittal letter.

R. Krich

2

If you have any questions or comments, please contact Melanie Wong, Project Manager for the environmental review of the proposed project, at (301) 415-6262. Thank you for your assistance.

Sincerely,

**/RA/**

Scott C. Flanders, Deputy Director  
Environmental and Performance  
Assessment Directorate  
Division of Waste Management  
and Environmental Protection  
Office of Nuclear Material Safety  
and Safeguards

Enclosure: 1. Memorandum of Agreement (ML050530238)  
2. Treatment Plan (ML050480339)

Docket: 70-3103

cc: Section 106 Service List (copy of Agreement only)

If you have any questions or comments, please contact Melanie Wong, Project Manager for the environmental review of the proposed project, at (301) 415-6262. Thank you for your assistance.

Sincerely,

**/RA/**

Scott C. Flanders, Deputy Director  
Environmental and Performance  
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DISTRIBUTION: Docket 70-3103

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DHartland/RIII	WMaier/RIV	CWalls		

**ML050590039**

\*See previous concurrence

<b>OFC</b>	DWMEP	DWMEP	OGC	DWMEP	DWMEP
<b>NAME</b>	CSchulte	MWong*	LClark*	JDavis*	SCFlanders*
<b>DATE</b>	02/07/ 05	02/07/05	02/25/05	02/08/05	02/25/05

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(Initials) (Date)

February 25, 2005

Mr. Harry Teague, Commission Chairman  
Lea County  
100 North Main Street,  
Suite 4  
Lovington, NM 88260

SUBJECT: FINAL MEMORANDUM OF AGREEMENT AND TREATMENT PLAN FOR THE  
PROPOSED LOUISIANA ENERGY SERVICES NATIONAL ENRICHMENT  
FACILITY

Dear Mr. Teague:

As you are aware, Louisiana Energy Services (LES), proposes to construct and operate the National Enrichment Facility (NEF), a gas centrifuge uranium enrichment facility, near Eunice, NM. By letter dated February 17, 2004, the U.S. Nuclear Regulatory Commission (NRC) staff initiated the consultation process required by Section 106 of the National Historic Preservation Act, with the State of New Mexico Department of Cultural Affairs, Historic Preservation Division, State Historic Preservation Office, and with regional Federally recognized Indian tribes.

In September 2003, Western Cultural Resource Management Inc. (WCRM), a LES contractor, performed a cultural resource inventory of the proposed project area. All portions of the Area of Potential Effect (APE) were included in the study area. During the inventory, seven prehistoric archeological sites were identified, with several of these sites occurring in the APE. The APE consists of: the proposed site area, including permanent and temporary building(s) footprints; parking and lay-down areas; and all site access roads. The proposed NEF site is located on land currently owned by the State of New Mexico. However, as part of a land exchange process involving the State, Lea County, and LES, the land for the proposed NEF would be deeded to LES. This land exchange process would be considered an adverse effect to the seven prehistoric archeological sites identified.

As a consequence of the findings of adverse effects, on November 2, 2004, the NRC staff requested comments on a draft Memorandum of Agreement and Treatment Plan that outline agreed-upon measures that LES would take to avoid, minimize, or mitigate these adverse effects. Based on comments received, the Agreement (Enclosure 1) and Treatment Plan (Enclosure 2) have been revised accordingly and are hereby provided to you in their final form.

As Lea County is identified as a signatory party on the Agreement, the NRC staff requests that the appropriate Lea County official sign and date the Agreement in the designated location. The NRC staff requests that the signed original of the Agreement (as provided) be returned to the NRC within 14 days of your receipt of this transmittal letter.

H.Teague

2

If you have any questions or comments, please contact Melanie Wong, Project Manager for the environmental review of the proposed project, at (301) 415-6262. Thank you for your assistance.

Sincerely,

**/RA/**

Scott C. Flanders, Deputy Director  
Environmental and Performance  
Assessment Directorate  
Division of Waste Management  
and Environmental Protection  
Office of Nuclear Material Safety  
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Enclosure: 1. Memorandum of Agreement (ML050530238)  
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**ML050590039**

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<b>OFC</b>	DWMEP	DWMEP	OGC	DWMEP	DWMEP
<b>NAME</b>	CSchulte	MWong	LClark	JDavis	SCFlanders
<b>DATE</b>	02/07/05	02/07/05	02/25/05	02/08/05	02/25/05

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February 25, 2005

Mr. David C. Eck, Cultural Resource Specialist  
New Mexico State Land Office  
P.O. Box 1148  
Santa Fe, NM 87504-1148

SUBJECT: FINAL MEMORANDUM OF AGREEMENT AND TREATMENT PLAN FOR THE  
PROPOSED LOUISIANA ENERGY SERVICES NATIONAL ENRICHMENT  
FACILITY

Dear Mr. Eck:

As you are aware, Louisiana Energy Services (LES), proposes to construct and operate the National Enrichment Facility (NEF), a gas centrifuge uranium enrichment facility, near Eunice, NM. By letter dated February 17, 2004, the U.S. Nuclear Regulatory Commission (NRC) staff initiated the consultation process required by Section 106 of the National Historic Preservation Act, with the State of New Mexico Department of Cultural Affairs, Historic Preservation Division, State Historic Preservation Office and with regional Federally recognized Indian tribes.

In September 2003, Western Cultural Resource Management Inc. (WCRM), a LES contractor, performed a cultural resource inventory of the proposed project area. All portions of the Area of Potential Effect (APE) were included in the study area. During the inventory, seven prehistoric archeological sites were identified, with several of these sites occurring in the APE. The APE consists of: the proposed site area, including permanent and temporary building(s) footprints; parking and lay-down areas; and all site access roads. The proposed NEF site is located on land currently owned by the State of New Mexico. However, as part of a land exchange process involving the State, Lea County, and LES, the land for the proposed NEF would be deeded to LES. This land exchange process would be considered an adverse effect to the seven prehistoric archeological sites identified.

As a consequence of the findings of adverse effects, on November 2, 2004, the NRC staff requested comments on a draft Memorandum of Agreement and Treatment Plan that outline agreed-upon measures that LES would take to avoid, minimize, or mitigate these adverse effects. Based on comments received, the Agreement (Enclosure 1) and Treatment Plan (Enclosure 2) have been revised accordingly and are hereby provided to you in their final form.

As the New Mexico State Land Office (NMSLO) is identified as a signatory party on the Agreement, the NRC staff requests that the appropriate NMSLO official sign and date the Agreement in the designated location. The NRC staff requests that the signed original of the Agreement (as provided) be returned to the NRC within 14 days of your receipt of this transmittal letter.

D.Eck

2

If you have any questions or comments, please contact Melanie Wong, Project Manager for the environmental review of the proposed project, at (301) 415-6262. Thank you for your assistance.

Sincerely,

**/RA/**

Scott C. Flanders, Deputy Director  
Environmental and Performance  
Assessment Directorate  
Division of Waste Management  
and Environmental Protection  
Office of Nuclear Material Safety  
and Safeguards

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Sincerely,

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Scott C. Flanders, Deputy Director  
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**ML050590039**

\*See previous concurrence

<b>OFC</b>	DWMEP	DWMEP	OGC	DWMEP	DWMEP
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February 25, 2005

Ms. Katherine Slick, State Historic Preservation Officer  
State of New Mexico  
Dept. of Cultural Affairs  
Historic Preservation Division  
228 East Palace Ave, Rm. 320  
Santa Fe, NM 87501

SUBJECT: FINAL MEMORANDUM OF AGREEMENT AND TREATMENT PLAN FOR THE  
PROPOSED LOUISIANA ENERGY SERVICES NATIONAL ENRICHMENT  
FACILITY

Dear Ms. Slick:

As you are aware, Louisiana Energy Services (LES), proposes to construct and operate the National Enrichment Facility (NEF), a gas centrifuge uranium enrichment facility, near Eunice, NM. By letter dated February 17, 2004, the U.S. Nuclear Regulatory Commission (NRC) staff initiated the consultation process required by Section 106 of the National Historic Preservation Act, with the State of New Mexico Department of Cultural Affairs, Historic Preservation Division, State Historic Preservation Office (SHPO) and with regional Federally recognized Indian tribes.

In September 2003, Western Cultural Resource Management Inc. (WCRM), a LES contractor, performed a cultural resource inventory of the proposed project area. All portions of the Area of Potential Effect (APE) were included in the study area. During the inventory, seven prehistoric archeological sites were identified, with several of these sites occurring in the APE. The APE consists of: the proposed site area, including permanent and temporary building(s) footprints; parking and lay-down areas; and all site access roads. The proposed NEF site is located on land currently owned by the State of New Mexico. However, as part of a land exchange process involving the State, Lea County, and LES, the land for the proposed NEF would be deeded to LES. This land exchange process would be considered an adverse effect to the seven prehistoric archeological sites identified.

As a consequence of the findings of adverse effects, on November 2, 2004, the NRC staff requested comments on a draft Memorandum of Agreement and Treatment Plan that outline agreed-upon measures that LES would take to avoid, minimize, or mitigate these adverse effects. Based on comments received, the Agreement (Enclosure 1) and Treatment Plan (Enclosure 2) have been revised accordingly and are hereby provided to you in their final form.

As the SHPO is identified as a signatory party on the Agreement, the NRC staff requests that the appropriate SHPO official sign and date the Agreement in the designated location. The NRC staff requests that the signed original of the Agreement (as provided) be returned to the NRC within 14 days of your receipt of this transmittal letter.

K.Slick

2

If you have any questions or comments, please contact Melanie Wong, Project Manager for the environmental review of the proposed project, at (301) 415-6262. Thank you for your assistance.

Sincerely,

**/RA/**

Scott C. Flanders, Deputy Director  
Environmental and Performance  
Assessment Directorate  
Division of Waste Management  
and Environmental Protection  
Office of Nuclear Material Safety  
and Safeguards

Enclosure: 1. Memorandum of Agreement (ML050530238)  
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Docket: 70-3103

cc: Jan Biella, Deputy State Historic Preservation Officer  
Phillip Young, Preservation Planning Manager  
Section 106 Service List (copy of Agreement only)

If you have any questions or comments, please contact Melanie Wong, Project Manager for the environmental review of the proposed project, at (301) 415-6262. Thank you for your assistance.

Sincerely,

**/RA/**

Scott C. Flanders, Deputy Director  
Environmental and Performance  
Assessment Directorate  
Division of Waste Management  
and Environmental Protection  
Office of Nuclear Material Safety  
and Safeguards

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Docket: 70-3103

cc: Jan Biella, Deputy State Historic Preservation Officer  
Phillip Young, Preservation Planning Manager  
Section 106 Service List (copy of Agreement only)

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**ML050590039**

\*See previous concurrence

<b>OFC</b>	DWMEP	DWMEP*	OGC*	DWMEP*	DWMEP*
<b>NAME</b>	CSchulte	MWong	LClark	JDavis	SCFlanders
<b>DATE</b>	02/07/05	02/07/05	02/25/05	02/08/05	02/25/05

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February 25, 2005

The Honorable Billy Evans Horse, Chairman  
Kiowa Tribe of Oklahoma  
P.O. Box 369  
Carnegie, OK 73015

SUBJECT: FINAL MEMORANDUM OF AGREEMENT AND TREATMENT PLAN FOR THE  
PROPOSED LOUISIANA ENERGY SERVICES NATIONAL ENRICHMENT  
FACILITY

Dear Chairman Evans Horse:

As you are aware, Louisiana Energy Services (LES), proposes to construct and operate the National Enrichment Facility (NEF), a gas centrifuge uranium enrichment facility, near Eunice, NM. By letter dated February 17, 2004, the U.S. Nuclear Regulatory Commission (NRC) staff initiated the consultation process required by Section 106 of the National Historic Preservation Act, with the State of New Mexico Department of Cultural Affairs, Historic Preservation Division, State Historic Preservation Office and with regional Federally recognized Indian tribes.

In September 2003, Western Cultural Resource Management Inc. (WCRM), a LES contractor, performed a cultural resource inventory of the proposed project area. All portions of the Area of Potential Effect (APE) were included in the study area. During the inventory, seven prehistoric archeological sites were identified, with several of these sites occurring in the APE. The APE consists of: the proposed site area, including permanent and temporary building(s) footprints; parking and lay-down areas; and all site access roads. The proposed NEF site is located on land currently owned by the State of New Mexico. However, as part of a land exchange process involving the State, Lea County, and LES, the land for the proposed NEF would be deeded to LES. This land exchange process would be considered an adverse effect to the seven prehistoric archeological sites identified.

As a consequence of the findings of adverse effects, on November 2, 2004, the NRC staff requested comments on a draft Memorandum of Agreement and Treatment Plan that outline agreed-upon measures that LES would take to avoid, minimize, or mitigate these adverse effects. Based on comments received, the Agreement (Enclosure 1) and Treatment Plan (Enclosure 2) have been revised accordingly and are hereby provided to you in their final form.

As the Kiowa Tribe of Oklahoma is identified as a concurring party on the Agreement, the NRC staff requests that the appropriate Tribal official sign and date the Agreement in the designated location. By signing, the Kiowa Tribe of Oklahoma is concurring on the stipulations in the Agreement. The NRC staff requests that the signed original of the Agreement (as provided) be returned to the NRC within 14 days of your receipt of this transmittal letter.

B. Evans Horse

2

If you have any questions or comments, please contact Melanie Wong, Project Manager for the environmental review of the proposed project, at (301) 415-6262. Thank you for your assistance.

Sincerely,

**/RA/**

Scott C. Flanders, Deputy Director  
Environmental and Performance  
Assessment Directorate  
Division of Waste Management  
and Environmental Protection  
Office of Nuclear Material Safety  
and Safeguards

Enclosure: 1. Memorandum of Agreement (ML050530238)  
2. Treatment Plan (ML050480339)

Docket: 70-3103

cc: The Honorable George Tahboune, Vice-Chairman  
Section 106 Service List (copy of Agreement only)

If you have any questions or comments, please contact Melanie Wong, Project Manager for the environmental review of the proposed project, at (301) 415-6262. Thank you for your assistance.

Sincerely,

**/RA/**

Scott C. Flanders, Deputy Director  
Environmental and Performance  
Assessment Directorate  
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**ML050590039**

\*See previous concurrence

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February 25, 2005

The Honorable Wallace Coffey, Chairman  
Comanche Tribe of Oklahoma  
PO Box 908  
Lawton, OK 73502

SUBJECT: FINAL MEMORANDUM OF AGREEMENT FOR THE PROPOSED LOUISIANA  
ENERGY SERVICES NATIONAL ENRICHMENT FACILITY

Dear Chairman Coffey:

As you are aware, Louisiana Energy Services (LES), proposes to construct and operate the National Enrichment Facility (NEF), a gas centrifuge uranium enrichment facility, near Eunice, NM. By letter dated February 17, 2004, the U.S. Nuclear Regulatory Commission (NRC) staff initiated the consultation process required by Section 106 of the National Historic Preservation Act, with the State of New Mexico Department of Cultural Affairs, Historic Preservation Division, State Historic Preservation Office and with regional Federally recognized Indian tribes.

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As the Comanche Tribe of Oklahoma is identified as a concurring party on the Agreement, the NRC staff requests that the appropriate Tribal official sign and date the Agreement in the designated location. By signing, the Comanche Tribe of Oklahoma is concurring on the stipulations in the Agreement. The NRC staff requests that the signed original of the Agreement (as provided) be returned to the NRC within 14 days of your receipt of this transmittal letter.

W.Coffey

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Sincerely,

**/RA/**

Scott C. Flanders, Deputy Director  
Environmental and Performance  
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February 25, 2005

The Honorable Arturo Sinclair, Governor  
Ysleta del Sur Pueblo  
PO Box 17579-Ysleta Station  
El Paso, TX 79917

SUBJECT: FINAL MEMORANDUM OF AGREEMENT FOR THE PROPOSED LOUISIANA  
ENERGY SERVICES NATIONAL ENRICHMENT FACILITY

Dear Governor Sinclair:

As you are aware, Louisiana Energy Services (LES), proposes to construct and operate the National Enrichment Facility (NEF), a gas centrifuge uranium enrichment facility, near Eunice, NM. By letter dated February 17, 2004, the U.S. Nuclear Regulatory Commission (NRC) staff initiated the consultation process required by Section 106 of the National Historic Preservation Act, with the State of New Mexico Department of Cultural Affairs, Historic Preservation Division, State Historic Preservation Office (SHPO) and with regional Federally recognized Indian tribes.

In September 2003, Western Cultural Resource Management Inc. (WCRM), a LES contractor, performed a cultural resource inventory of the proposed project area. All portions of the Area of Potential Effect (APE) were included in the study area. During the inventory, seven prehistoric archeological sites were identified, with several of these sites occurring in the APE. The APE consists of: the proposed site area, including permanent and temporary building(s) footprints; parking and lay-down areas; and all site access roads. The proposed NEF site is located on land currently owned by the State of New Mexico. However, as part of a land exchange process involving the State, Lea County, and LES, the land for the proposed NEF would be deeded to LES. This land exchange process would be considered an adverse effect to the seven prehistoric archeological sites identified.

As a consequence of the findings of adverse effects, on November 2, 2004, the NRC staff requested comments on a draft Memorandum of Agreement and Treatment Plan that outline agreed-upon measures that LES would take to avoid, minimize, or mitigate these adverse effects. Based on comments received, the Agreement (Enclosure 1) and Treatment Plan (Enclosure 2) have been revised accordingly and are hereby provided to you in their final form.

As the Ysleta del Sur Pueblo is identified as a concurring party on the Agreement, the NRC staff requests that the appropriate Tribal official sign and date the Agreement in the designated location. By signing, the Ysleta del Sur Pueblo is concurring on the stipulations in the Agreement. The NRC staff requests that the signed original of the Agreement (as provided) be returned to the NRC within 14 days of your receipt of this transmittal letter.

A.Sinclair

2

If you have any questions or comments, please contact Melanie Wong, Project Manager for the environmental review of the proposed project, at (301) 415-6262. Thank you for your assistance.

Sincerely,

*/RA/*

Scott C. Flanders, Deputy Director  
Environmental and Performance  
Assessment Directorate  
Division of Waste Management  
and Environmental Protection  
Office of Nuclear Material Safety  
and Safeguards

Enclosure: 1. Memorandum of Agreement (ML050530238)  
2. Treatment Plan (ML050480339)

Docket: 70-3103

cc: Section 106 Service List (copy of Agreement only)

A.Sinclair

2

If you have any questions or comments, please contact Melanie Wong, Project Manager for the environmental review of the proposed project, at (301) 415-6262. Thank you for your assistance.

Sincerely,

**/RA/**

Scott C. Flanders, Deputy Director  
Environmental and Performance  
Assessment Directorate  
Division of Waste Management  
and Environmental Protection  
Office of Nuclear Material Safety  
and Safeguards

Enclosure: 1. Memorandum of Agreement (ML050530238)  
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cc: Section 106 Service List (copy of Agreement only)

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TCombs, OCA	RVirgilio, OSTP	LClark/OGC	MBlevins	KEverly/NSIR
SGagner/OPA	DMcIntyre/OPA	KClark/RII	DSeymour/RII	RHannah/RII
JHenson/RII	RTrojanowski/RII	DAyres/RII	KO'Brien/RIII	VMitlyng/RIII
DHartland/RIII	WMaier/RIV	CWalls		

**ML050590039**

\*See previous concurrence

<b>OFC</b>	DWMEP	DWMEP*	OGC*	DWMEP*	DWMEP*
<b>NAME</b>	CSchulte	MWong	LClark	JDavis	SCFlanders
<b>DATE</b>	02/07/ 05	02/07/05	02/25/05	02/08/05	02/25/05

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February 25, 2005

The Honorable Alonso Chalepah, Chairman  
Apache Tribe of Oklahoma  
P.O. Box 1220  
Anadarko, OK 73005

SUBJECT: FINAL MEMORANDUM OF AGREEMENT FOR THE PROPOSED LOUISIANA  
ENERGY SERVICES NATIONAL ENRICHMENT FACILITY

Dear Chairman Chalepah:

As you are aware, Louisiana Energy Services (LES), proposes to construct and operate the National Enrichment Facility (NEF), a gas centrifuge uranium enrichment facility, near Eunice, NM. By letter dated February 17, 2004, the U.S. Nuclear Regulatory Commission (NRC) staff initiated the consultation process required by Section 106 of the National Historic Preservation Act, with the State of New Mexico Department of Cultural Affairs, Historic Preservation Division, State Historic Preservation Office (SHPO) and with regional Federally recognized Indian tribes.

In September 2003, Western Cultural Resource Management Inc. (WCRM), a LES contractor, performed a cultural resource inventory of the proposed project area. All portions of the Area of Potential Effect (APE) were included in the study area. During the inventory, seven prehistoric archeological sites were identified, with several of these sites occurring in the APE. The APE consists of: the proposed site area, including permanent and temporary building(s) footprints; parking and lay-down areas; and all site access roads. The proposed NEF site is located on land currently owned by the State of New Mexico. However, as part of a land exchange process involving the State, Lea County, and LES, the land for the proposed NEF would be deeded to LES. This land exchange process would be considered an adverse effect to the seven prehistoric archeological sites identified.

As a consequence of the findings of adverse effects, on November 2, 2004, the NRC staff requested comments on a draft Memorandum of Agreement and Treatment Plan that outline agreed-upon measures that LES would take to avoid, minimize, or mitigate these adverse effects. Based on comments received, the Agreement (Enclosure 1) and Treatment Plan (Enclosure 2) have been revised accordingly and are hereby provided to you in their final form.

As the Apache Tribe of Oklahoma is identified as a concurring party on the Agreement, the NRC staff requests that the appropriate Tribal official sign and date the Agreement in the designated location. By signing, the Apache Tribe of Oklahoma is concurring on the stipulations in the Agreement. The NRC staff requests that the signed original of the Agreement (as provided) be returned to the NRC within 14 days of your receipt of this transmittal letter.

A.Chalepah

2

If you have any questions or comments, please contact Melanie Wong, Project Manager for the environmental review of the proposed project, at (301) 415-6262. Thank you for your assistance.

Sincerely,

**/RA/**

Scott C. Flanders, Deputy Director  
Environmental and Performance  
Assessment Directorate  
Division of Waste Management  
and Environmental Protection  
Office of Nuclear Material Safety  
and Safeguards

Enclosure: 1. Memorandum of Agreement (ML050530238)  
2. Treatment Plan (ML050480339)

Docket: 70-3103

cc: Bobby Jay, Cultural Resources Officer  
Section 106 Service List (copy of Agreement only)

If you have any questions or comments, please contact Melanie Wong, Project Manager for the environmental review of the proposed project, at (301) 415-6262. Thank you for your assistance.

Sincerely,

**/RA/**

Scott C. Flanders, Deputy Director  
Environmental and Performance  
Assessment Directorate  
Division of Waste Management  
and Environmental Protection  
Office of Nuclear Material Safety  
and Safeguards

Enclosure: 1. Memorandum of Agreement (ML050530238)  
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Docket: 70-3103

cc: Bobby Jay, Cultural Resources Officer  
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**ML050590039**

\*See previous concurrence

<b>OFC</b>	DWMEP	DWMEP*	OGC*	DWMEP*	DWMEP*
<b>NAME</b>	CSchulte	MWong	LClark	JDavis	SCFlanders
<b>DATE</b>	02/07/05	02/07/05	02/25/05	02/08/05	02/25/05

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February 25, 2005

Ms. Holly Houghten, Tribal Historic Preservation Officer  
Mescalero Apache Tribe  
P.O. Box 227  
Mescalero, NM 88340

SUBJECT: FINAL MEMORANDUM OF AGREEMENT FOR THE PROPOSED LOUISIANA  
ENERGY SERVICES NATIONAL ENRICHMENT FACILITY

Dear Ms. Houghten:

As you are aware, Louisiana Energy Services (LES), proposes to construct and operate the National Enrichment Facility (NEF), a gas centrifuge uranium enrichment facility, near Eunice, NM. By letter dated February 17, 2004, the U.S. Nuclear Regulatory Commission (NRC) staff initiated the consultation process required by Section 106 of the National Historic Preservation Act, with the State of New Mexico Department of Cultural Affairs, Historic Preservation Division, State Historic Preservation Office (SHPO) and with regional Federally recognized Indian tribes.

In September 2003, Western Cultural Resource Management Inc. (WCRM), a LES contractor, performed a cultural resource inventory of the proposed project area. All portions of the Area of Potential Effect (APE) were included in the study area. During the inventory, seven prehistoric archeological sites were identified, with several of these sites occurring in the APE. The APE consists of: the proposed site area, including permanent and temporary building(s) footprints; parking and lay-down areas; and all site access roads. The proposed NEF site is located on land currently owned by the State of New Mexico. However, as part of a land exchange process involving the State, Lea County, and LES, the land for the proposed NEF would be deeded to LES. This land exchange process would be considered an adverse effect to the seven prehistoric archeological sites identified.

As a consequence of the findings of adverse effects, on November 2, 2004, the NRC staff requested comments on a draft Memorandum of Agreement and Treatment Plan that outline agreed-upon measures that LES would take to avoid, minimize, or mitigate these adverse effects. Based on comments received, the Agreement (Enclosure 1) and Treatment Plan (Enclosure 2) have been revised accordingly and are hereby provided to you in their final form.

As the Mescalero Apache Tribe is identified as a concurring party on the Agreement, the NRC staff requests that the appropriate Tribal official sign and date the Agreement in the designated location. By signing, the Mescalero Apache Tribe is concurring on the stipulations in the Agreement. The NRC staff requests that the signed original of the Agreement (as provided) be returned to the NRC within 14 days of your receipt of this transmittal letter.

H.Houghten

2

If you have any questions or comments, please contact Melanie Wong, Project Manager for the environmental review of the proposed project, at (301) 415-6262. Thank you for your assistance.

Sincerely,

**/RA/**

Scott C. Flanders, Deputy Director  
Environmental and Performance  
Assessment Directorate  
Division of Waste Management  
and Environmental Protection  
Office of Nuclear Material Safety  
and Safeguards

Enclosure: 1. Memorandum of Agreement (ML050530238)  
2. Treatment Plan (ML050480339)

Docket: 70-3103

cc: Section 106 Service List (copy of Agreement only)

H.Houghten

2

If you have any questions or comments, please contact Melanie Wong, Project Manager for the environmental review of the proposed project, at (301) 415-6262. Thank you for your assistance.

Sincerely,

**/RA/**

Scott C. Flanders, Deputy Director  
Environmental and Performance  
Assessment Directorate  
Division of Waste Management  
and Environmental Protection  
Office of Nuclear Material Safety  
and Safeguards

Enclosure: 1. Memorandum of Agreement (ML050530238)  
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**ML050590039**

\*See previous concurrence

<b>OFC</b>	DWMEP	DWMEP	OGC	DWMEP	DWMEP
<b>NAME</b>	CSchulte	MWong	LClark	JDavis	SCFlanders
<b>DATE</b>	02/07/05	02/07/05	02/25/05	02/08/05	02/25/05

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