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~~RELATED~~ CORRESPONDENCE

February 24, 2005

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

February 25, 2005 (2:12pm)

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
INTERVENORS
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. 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.

Respectfully submitted,



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Template = SECY-035

SECY-02

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February 24, 2005

**Nuclear Information and Resource Service/Public Citizen
Documents withheld under claim of privilege or protection from disclosure
050223**

Date:	Author:	Recipients:	Subject:	Protection:
041122	Lovejoy	Mariotte, Hauter, Boyd, Malherek	Discovery updating	Atty. Client
041122	Lovejoy	Boyd	Legislation	Atty. Client
041130	Lovejoy	Mariotte, Hauter, Boyd, Malherek, Hancock, Curran, Komanoff, Makhijani, Sheehan, Rice	Protective order	Atty. Client, Work product

CERTIFICATE OF SERVICE

Pursuant to 10 CFR § 2.305 the undersigned attorney of record certifies that on February 24, 2005, the foregoing Supplemental Disclosure Pursuant to 10 CFR 2.704(a) on behalf of Intervenor 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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The Wall Street Journal
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Wednesday, January 7, 2004

New Mexico Takes a New Look At Building of Uranium Plant

By Jim Carlton

EUNICE, N.M. -- As a U.S. representative in the early 1990s, Bill Richardson was New Mexico's only congressional lawmaker to oppose building a nuclear-weapons plant in the state. Later as President Clinton's energy secretary, he ordered stepped-up environmental reviews for a low-level nuclear-waste dump planned near Carlsbad, N.M. Now governor, Mr. Richardson has emerged as an unlikely booster of a proposed \$1.2 billion project outside this tiny windblown town near the Texas border that would convert uranium into fuel for nuclear power plants.

That was then and now is now, and the difference is jobs, says Mr. Richardson, who has been mentioned as a possible Democratic vice-presidential candidate.

"As a governor, you have to be concerned about jobs, but you also have to make sure the environment is protected," he said in an interview. The plant won't pose big environmental risks, he said, and will bring 210 well-paying jobs to a desolate corner of his low-income state.

Situated in sand and mesquite on the rolling desert of southeastern New Mexico, Eunice is in Lea County, an extension of the West Texas oil patch that has been losing jobs as those fields are depleted. The town's population has plunged to about 2,500 from 3,500 in the mid-1980s. Boarded-up homes and businesses line many streets, along which an occasional tumbleweed can be seen to blow.

The state itself is among the poorest in the U.S., with its per capita income of \$23,908 ranking 47th in the country. Rural areas, in particular, have been hard hit by declines in traditional industries such as mining and oil, as well as rampant unemployment among New Mexico's Navajo Indians.

Critics of the Eunice plant include state and national antinuclear groups, who warn uranium-enrichment facilities such as this pose a public danger because of their potential to leak radioactive material into the air and ground. They say it is exactly the kind of risky nuclear project that Rep. Richardson or Secretary Richardson would have opposed. "His history when it comes to stands on nuclear issues is kindly described as paradoxical," said Jay Coughlin, director of Nuclear Watch New Mexico.

Proposed by Washington, D.C.-based Louisiana Energy Services Inc., the project won Mr. Richardson's backing after company officials promised that all radioactive waste from the plant would be disposed outside the state. LES is a partnership that includes the British and Dutch governments, as well as European and U.S. businesses.

The company appeared to backtrack, however, when it worked with the state's senior senator, Pete Domenici, to slip a provision in the energy bill that would have required the Energy Department to take radioactive waste from the plant. Critics say that could have resulted in some waste winding up at the low-level nuclear dump near Carlsbad, without Gov. Richardson's power to block it.

As conditions of his continued support, the governor made LES President Jim Ferland promise never to use the Carlsbad dump for waste disposal, and ordered the company to undergo more rigorous permitting. "I think I have continued my vigilant ways," Gov. Richardson said. LES officials say they intended the energy provision only as an emergency backup.

Currently the U.S. has no place to store waste from uranium-enrichment plants, resulting in stockpiles at facilities in Ohio, Kentucky and Tennessee. LES says it is negotiating with other companies for construction of a facility outside New Mexico to "de-convert" the waste, or process it into a more stable form that can be safely buried.

The twists and turns in New Mexico are just the latest developments in LES's 15-year effort to build a uranium-enrichment plant in the U.S. The plant would compete with USEC Inc., Bethesda, Maryland, a former arm of the U.S. government that was privatized in 1998 and now operates the nation's only enrichment plants.

LES first tried to build its plant near a predominantly black community in Louisiana, but ran into opposition from African-American and environmental groups. The company then shifted to a site in Tennessee, but local politicians balked at the required permits. Early last year, while LES was still negotiating in Tennessee, Lea County officials here expressed interest in hosting the nuclear facility.

Local politicians unanimously pledged to support the project, and the county offered \$1.8 billion in bonds to help pay for construction. County officials touted a survey of the area that showed it to be seismically stable and far from any water sources that could be polluted.

Some New Mexicans were surprised when Mr. Richardson signed on to the project because of his past opposition to some nuclear facilities. The governor, denying any political motivations, said he has long supported nuclear businesses that are environmentally sound. "I want this project to be a success," the governor said at a public appearance here last summer. "I believe [it] will prove to be a good project for New Mexico -- safe, sound and secure."

This ran in Platt's Nuclear News Flashes for Nov. 22

--Congress gave a boost to LES' plans to build an enrichment plant in New Mexico by adopting language that will require DOE, if requested by LES, to take possession of the depleted uranium produced at the plant at one of the department's existing depleted uranium storage facilities. The language, passed as part of an omnibus spending bill over the weekend, would appear to satisfy concerns of New Mexico Gov.

Bill Richardson and other state officials that the depleted uranium would remain in the state even after the plant was decommissioned. DOE has depleted uranium in storage mainly at three sites: Oak Ridge, Tenn., Paducah, Ky., and Portsmouth, Ohio. LES has said it prefers to come up with a private disposal solution, but now has a backup in case the private disposal option is delayed or proves to be too costly.

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This is an interesting, but erroneous reading of the soon-to-be new law. It should not satisfy at all Governor Richardson because it doesn't say what the article says. The language actually is that DOE will "take title and possession of such depleted uranium at an existing DUF6 storage facility."

While there could be the interpretation that the new language is what the article says, that's not the most logical or politically likely reading. At the point that LES has DUF6 it will be "an existing DUF6 storage facility." Existing law could require DOE to dispose of LES's waste (as LES itself has argued). What the new language would do is to have DOE take title and possession (for storage), not just disposal. Politically, if Majority Leader Frist from TN, Majority Whip McConnell from KY, or the two powerful OH senators thought that the language required the LES waste to come to their states, they would have opposed the provision and it wouldn't have been in the bill. Since they did allow it in the bill, I'm sure that they think it means that the waste can stay in New Mexico.

At 07:00 PM 11/24/04 +0000, mar wrote:

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Monday, November 29, 2004

Governor: Loophole in measure to remove waste from state

SANTA FE (AP) - A measure approved by Congress to ensure that waste from a proposed nuclear fuel factory is disposed outside of New Mexico is inadequate, according to Gov. Bill Richardson's office. The legislation was added by Sen. Pete Domenici, R-N.M., to a massive spending bill.

The bill would require the federal government to send the factory's uranium waste to sites in Ohio or Kentucky, said Alex Flint, a senior aide to Domenici.

But critics said the bill could allow the federal government to take possession of the waste and leave it in New Mexico indefinitely.

"It's certainly not a clear highway out of New Mexico," said Michael Mariotte, president of the Washington, D.C.-based Nuclear Information and Resource Service.

Gilbert Gallegos, a spokesman for Richardson, said the bill's language is ambiguous.

Louisiana Energy Services has applied for a federal license to build a factory near Eunice to enrich uranium so it can be used for fuel in electrical generating stations.

LES officials have said they hope to reach an agreement with a private company to dispose of the waste. But LES has the option of paying the federal government to take the waste.

Domenici agreed in December to push legislation to try to ease Richardson's concerns that the federal government could keep the waste in the state.

The paragraph in the spending bill says that if LES pursues the federal disposal option, the U.S. government "shall be required to take title to and possession of such depleted uranium at an existing (uranium waste) storage facility."

Flint said that means sites in Ohio and Kentucky and LES attorneys agree with that interpretation.

But Mariotte said LES could build a storage facility at its New Mexico factory and that could meet that definition.

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The Santa Fe New Mexican
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Thursday, November 25, 2004

DOMENICI'S PROVISION WORRIES WATCHDOGS

BEN NEARY

A provision that U.S. Sen. Pete Domenici, R-N.M., has quietly slipped into Congress' main spending bill could be construed to allow a European company ultimately to leave radioactive waste at its planned facility in Southern New Mexico despite promises to the contrary, watchdog groups say. Domenici strongly supports Louisiana Energy Services, a company largely owned by European interests, in its efforts to open a uranium-enrichment plant near Hobbs.

Late last year, in an effort to shore up Gov. Bill Richardson's wavering support for the enrichment plant, Domenici pledged he would pass legislation specifying that no waste from the plant would remain in New Mexico.

Yet Richardson said Wednesday that he's dissatisfied with the provision Domenici included in the Consolidated Appropriations Act that Congress passed this weekend. The bill, which includes much government spending, now awaits what observers say is certain presidential approval.

"I appreciate Senator Domenici's effort to pass legislation that will assure that the byproducts from the enrichment facility are quickly removed from New Mexico," Richardson said.

"Nonetheless, I believe the language that passed is inadequate. Senator Domenici and the state of New Mexico will work together to get an agreement with the company to incorporate language that makes sure the waste is removed from New Mexico in a timely fashion into the license for the facility."

The federal Nuclear Regulatory Commission has dismissed many issues the state wanted to raise about the safety and environmental effects of the plant. Both the New Mexico Environment Department and the state attorney general's office have asked the federal agency to reconsider.

Gilbert Gallegos, spokesman for Richardson, said Wednesday that the governor is concerned there's no specific requirement in Domenici's language that the waste be removed from New Mexico and no timeline for doing so. Also, Gallegos said the governor wants to see provisions that encourage LES to process and handle its waste on its own not turn it over to the federal government.

Alex Flint, one of Domenici's senior aides on the Energy Committee, worked in recent years as a lobbyist for Excelon, an American energy company that's a minor partner in the LES consortium.

Repeated attempts to reach Domenici's staff for comment Wednesday were unsuccessful.

Under pre-existing federal law, uranium-enrichment-plant operators could turn over depleted uranium wastes from their plants to the U.S. Department of Energy for processing and storage.

Domenici's cryptic provision, however, specifies DOE will be "required to take title to and possession of such depleted uranium at an existing (depleted uranium hexafluoride) storage facility."

Marshall Cohen, vice president for Louisiana Energy Services, said Wednesday that it's clear Domenici's provision means no waste could be kept at the LES site.

LES has pledged to Richardson that none of the radioactive waste from its plant will remain in New Mexico.

LES has also emphasized it has no intention of turning waste over to DOE. Rather, it says it expects private industry will build a "deconversion" plant somewhere in the country to handle the waste.

Cohen said New Mexico has no depleted-uranium-hexafluoride- storage facilities. Accordingly, he said the waste couldn't remain at the company's plant, which won't be federally licensed as a storage facility, under the Domenici language.

"It think it clarifies that there's no question that they (the Department of Energy) are going to take title," Cohen said. "They're going to take possession, and take possession at a facility that's not in New Mexico. I think there's no question about that."

The Nuclear Information and Resource Service and Public Citizen, both watchdog groups based in Washington, D.C., have intervened in LES's application for an operating permit from the U.S. Nuclear Regulatory Commission.

Spokespeople for both NIRS and Public Citizen said Wednesday that they believe the Domenici language could mean just the opposite of what Cohen says.

Michael Marriotte, executive director of NIRS, said his group questions the meaning of the word "existing" in Domenici's provision.

"In our book, we don't know what existing is," Marriotte said. "If it's existing at the time that LES needs it (the waste) taken away, then LES is an existing site, so they could leave it there," Marriotte said. "The way they wrote it, in such a vague and unclear manner, I guess maybe that was their intent."

"This is very typical of Domenici to do things out of public view, to spring them on the public and the rest of the Senate."

"They could have made it clear that this waste would have to go someplace else," Marriotte said. "They chose not to do that, which in my mind is deliberate and will serve as a basis to keep the waste in New Mexico."

Michele Boyd, legislative director of the energy program at Public Citizen, noted the Energy Department has its own depleted- uranium waste stockpiled at sites around the country.

"This requires the Department of Energy to take possession if asked by LES," Boyd said. "But it doesn't require the DOE to do anything with it. DOE may

indeed take possession of the waste, but if they do, they may not do anything with it, because they've got their own problems to deal with their own depleted-uranium waste."

Boyd said she believes Domenici put the provision in the spending bill to satisfy his pledge to Richardson to specify that waste from the plant won't remain in New Mexico. "I think it's really important that the governor understand that this is not going to cut it," Boyd said. "This is not going to solve the problem."

Don Hancock, at the Southwest Research and Information Center in Albuquerque, has followed the LES application. He said the fact that questions are swirling about the meaning of Domenici's legislation show the hazards of making public laws in private.

"To me, the process is totally outrageous," Hancock said Wednesday, noting there were no committee hearings or testimony on Domenici's legislation. "We're supposed to be a democratic nation; we're supposed to debate things."

Associated Press

Tuesday, November 30, 2003

Domenici: Measure would ensure nuclear waste's removal

SANTA FE (AP) - U.S. Sen. Pete Domenici says a measure he sponsored will ensure that waste from a proposed nuclear fuel factory near Eunice is sent outside of New Mexico. Gov. Bill Richardson last week questioned the adequacy of the measure, which Domenici, R-N.M., added to a massive spending bill approved by Congress.

Domenici, who supports the uranium enrichment facility, said Monday he's confident no radioactive waste that the plant generates will remain in New Mexico.

Louisiana Energy Services has proposed building a \$1.2 billion National Enrichment Facility five miles east of Eunice. The U.S. Nuclear Regulatory Commission, which must license the plant, is considering LES's application.

New Mexico officials are concerned about waste since the uranium enrichment process -- which produces fuel for nuclear reactors -- generates a type of waste that can't be dumped anywhere in the United States.

LES has said it is holding discussions with companies to build a de-conversion facility that could treat the waste, but currently one does not exist.

Richardson, along with citizens' groups that oppose the plant, contend Domenici's provision could be construed to allow radioactive waste to remain in the state.

Domenici said he's committed to working with the state and LES to include additional provisions in the plant's federal license to specify no waste will remain in the state.

"We are working on language that will be in the license that will make it legally binding," he said.

Domenici's provision would give LES a backstop if a private de-conversion facility is not built. The provision would require the U.S. Department of Energy "to take title to and possession of such depleted uranium at an existing ... storage facility."

Spokesmen for two national watchdog groups, the Nuclear Information and Resource Service and Public Citizen, said they believe that could allow waste to stay in New Mexico. They said it's possible a federal storage facility could be built in the state for the waste.

They also question the word "existing" in the provision, contending it could mean the LES site itself becomes a storage facility simply by having waste on site.

Richardson said last week that while he appreciated Domenici's efforts to specify wastes will be removed, the language was inadequate. However, he added: "Senator Domenici and the state of New Mexico will work together to get an agreement with the company to incorporate language that makes sure the

waste is removed from New Mexico in a timely fashion into the license for the facility."

Alex Flint, staff director of the U.S. Senate Energy and Natural Resources Committee, said existing storage facilities for depleted uranium are in Ohio and Kentucky, and the provision requiring the DOE to take possession of waste from the LES plant will require waste to be taken to one of those sites. He said LES attorneys agree with that interpretation.

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Wednesday, December 1, 2004

Richardson says uranium waste can't stay in N.M.

SANTA FE (AP) - Gov. Bill Richardson says he will not support a proposed nuclear fuel factory near Eunice until the federal government guarantees that no radioactive waste from the facility would remain in New Mexico. His decision means the state will not act on a groundwater discharge permit that Louisiana Energy Services would need to operate the factory.

LES has proposed building the \$1.2 billion uranium enrichment facility five miles east of Eunice to produce fuel for nuclear reactors.

The federal Nuclear Regulatory Commission, which must license the factory, is considering LES's application.

Sen. Pete Domenici, R-N.M., has said a measure he sponsored would ensure that waste from the factory would be sent outside of New Mexico. He added the legislation to a massive spending bill approved by Congress.

"Senator Domenici had good intentions, but the language is inadequate and doesn't fix the problem," Richardson said Tuesday.

Richardson said he will withhold his support of the project until Congress passes other language that specifies the waste would be removed from New Mexico or until the federal commission issues LES an operating permit that contains binding language to that effect.

"What I am seeking is either very strong language in the license that precludes the waste being stored in New Mexico or very strong language in an appropriations bill next year," Richardson said.

He also said his office is talking to state Attorney General Patricia Madrid about a joint effort concerning the LES project. He declined to say what they are considering.

The state Environment Department and the attorney general's office have been rebuffed by the commission's licensing board in efforts to raise concerns about the factory, including the licensing process about waste disposal.

Domenici said Monday his staff was aware that Richardson would have concerns about the provision Congress has passed.

Domenici said he remains committed to working with Richardson to include language concerning waste disposal in the federal license for the factory.

Marshall Cohen, an LES spokesman, said Tuesday that the company remains confident that it will be able to satisfy Richardson's concerns.

The company believes that the language in Domenici's measure is a good first step, Cohen said.

LES has begun discussions with Richardson's staff about other language that could be included in the federal permit, Cohen said.

Richardson "has had his concerns for a while, and we understand that," Cohen said. "And we're looking for a combination of ways -- the statutory language that was in the bill, plus the licensing language -- and we'll work with his office very closely to do that."

Cohen said LES expects private industry would build a factory in the United States to process the depleted uranium to make it safe for disposal.

No such facility exists in the country today.

The U.S. Department of Energy has hundreds of thousands of tons of similar waste stockpiled at uranium-enrichment factories in Kentucky and Ohio.

The DOE plans to build its own waste-treatment factories to handle its backlog.

Ohio officials have opposed the prospect of taking waste from the proposed LES factory.

New Mexico Environment Secretary Ron Curry said Tuesday his office has received a groundwater discharge permit application from LES.

The permit application is not yet deemed complete, he said.

Curry said that before his office can consider processing the permit, it must know how long waste from the factory would remain on site.

That won't be clear until the federal licensing process is complete, he said.

Once the permit application is deemed complete, it would go through a public-hearing process, Curry said.

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Richardson, along with citizens' groups that oppose the plant, contend Domenici's provision could be construed to allow radioactive waste to remain in the state.

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"We are working on language that will be in the license that will make it legally binding," he said.

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BEN NEARY | The New Mexican
December 1, 2004

Gov. Bill Richardson has placed his support for a planned uranium-enrichment facility on hold until the state gets a binding guarantee from the federal government that no radioactive waste would remain in New Mexico.

Richardson's decision means the state will not act on a groundwater-discharge permit that the Louisiana Energy Services Co. would need to operate. LES proposes to build its plant near Hobbs, in southeastern New Mexico.

The plant would produce fuel for nuclear reactors. Waste from the plant would include depleted uranium.

Richardson's decision to withdraw his support follows action late last month in which Sen. Pete Domenici, R-N.M., added to a federal spending bill language that addresses disposal of waste from uranium-enrichment plants.

Domenici's provision, now awaiting presidential approval, specified that the U.S. Department of Energy must take title and possession of radioactive waste from enrichment plants at existing storage facilities.

Both Richardson and private watchdog groups opposed to the LES plant said Domenici's provision could be construed to allow waste from the LES plant to be moved to a storage facility that might be built in New Mexico.

"Sen. Domenici had good intentions, but the language is inadequate and doesn't fix the problem," Richardson said Tuesday.

Richardson had promised early this year to withdraw his support from the LES project unless Congress passed language guaranteeing that no waste from the plant would remain in the state.

Richardson said he will withhold his support of the LES project until either Congress passes other language that specifies the waste will be removed from New Mexico or until the federal Nuclear Regulatory Commission issues LES an operating permit that contains binding language to that effect.

"What I am seeking is either very strong language in the license that precludes the waste being stored in New Mexico or very strong language in an appropriations bill next year," Richardson said.

Richardson also said his office is talking to New Mexico Attorney General Patricia Madrid about a joint effort concerning the LES project. He declined to say what they're considering.

Both the New Mexico Environment Department and the AG's Office have been rebuffed by the NRC's licensing board in efforts to raise concerns in the licensing process about waste disposal and other concerns with the LES plant.

Domenici, in an interview on Monday, said his staff was aware that Richardson would have concerns about the provision Congress has passed. The senator said

there was much discussion of draft language in the days before the vote on the spending bill.

Domenici said he remains committed to working with Richardson to include language concerning waste disposal in the federal license for the plant.

Marshall Cohen, LES spokesman, said Tuesday that the company remains confident that it will be able to satisfy Richardson's concerns. Cohen said the company believes that the language Domenici passed is a good first step, but said the company has already begun discussions with Richardson's staff about other language that could be included in the federal permit.

"(Richardson) has had his concerns for a while, and we understand that," Cohen said. "And we're looking for a combination of ways -- the statutory language that was in the bill, plus the licensing language -- and we'll work with his office very closely to do that."

Cohen has maintained that the company expects private industry will build a plant in the United States to process the depleted uranium to make it safe for disposal. No such facility exists in the country today.

The U.S. Department of Energy has hundreds of thousands of tons of similar waste stockpiled at uranium-enrichment plants in Kentucky and Ohio. The DOE plans to build its own waste-treatment plants to handle its backlog. Ohio officials have voiced opposition to the prospect of taking waste from the LES plant if it's ever built.

Ron Curry, New Mexico Environment secretary, said Tuesday his office has received a groundwater-discharge-permit application from LES. He said the permit application is not yet deemed complete.

Curry said that before his office can consider processing the groundwater permit, it must know how long waste from the plant will remain on site. That may not won't be clear until the federal licensing process is complete, he said.

Once the permit application is deemed complete, Curry said, it would go through a public-hearing process.

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Here is a bad editorial from the Albuquerque Journal which completely misses the point, and another New Mexican story on the LES waste provision (which doesn't really say anything new):

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Albuquerque Journal

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Tuesday, November 30, 2004

Legislating Haste Opens Door to Waste

EDITORIALS Last-minute legislating to assure that waste from a proposed uranium enrichment plant is shipped out of New Mexico might not do the trick.

A paragraph hastily inserted into a fast-moving spending bill by an aide to U.S. Sen. Pete Domenici, R-N.M., targeted uranium hexafluoride waste that would be generated by Louisiana Energy Services at a proposed plant near Hobbs.

The wording was intended to require that the mildly radioactive waste be stored at an existing facility, which Domenici aide Alex Flint said means enrichment plants in Ohio or Kentucky.

A nuclear watchdog group and Gov. Bill Richardson believe it could be interpreted to allow storage at the New Mexico plant, once it "exists."

The matter needs to be clarified because there is no government facility or private company that processes the substance for permanent storage and no place approved for permanent storage. The other plants have accumulated some 700,000 tons of uranium hexafluoride.

A similar plant operates with few if any problems in the Netherlands. The facility -- minus the headaches of indefinite waste storage onsite -- would be a boon to Lea County and New Mexico.

U.S. Sen. Pete Domenici should wrap this issue up in bullet-proof language when a new Congress convenes next year.

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The Santa Fe New Mexican

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Tuesday, November 30, 2004

DOMENICI: URANIUM WASTE TO BE REMOVED FROM N.M.

BEN NEARY

Sen. Pete Domenici, R-N.M., says he's confident that no waste from a uranium-enrichment facility planned for construction in Southern New Mexico

ultimately will remain in the state. Legislation drafted by Domenici on the waste issue came under fire last week from Gov. Bill Richardson as well as citizen groups opposed to the plant.

Richardson and other critics say Domenici's provision, which is expected to receive presidential approval as part of a spending bill, could be construed to allow radioactive waste to remain in the state.

Domenici, who chairs the Senate Committee on Energy and Natural Resources, is an outspoken supporter of plans by Louisiana Energy Services, a company largely owned by European energy interests, to build the enrichment plant near Hobbs. The U.S. Nuclear Regulatory Commission is considering LES's application for a federal permit for the plant, which would produce fuel for nuclear reactors.

In a telephone interview Monday, Domenici said he recognizes Richardson has concerns about the legislation. However, Domenici said he's committed to working with the state and the company to include additional provisions in the facility's forthcoming federal license to specify that no waste will remain in the state.

"We are working on language that will be in the (NRC) license that will make it legally binding," the senator said. "And thus the waste will not be in New Mexico."

LES has said it intends to turn over waste from its plant to a private facility for processing. No such facility exists in the country, but company spokesmen say they expect one will be built.

Domenici's provision would give LES a backstop should a private facility fail to materialize. His provision specifies that the DOE will be "required to take title to and possession of such depleted uranium at an existing (depleted uranium hexafluoride) storage facility."

The Nuclear Information and Resource Service and Public Citizen, national watchdog groups, have protested the LES application before the regulatory commission. Spokespeople for both groups said last week they believe Domenici's provision could allow wastes to stay in New Mexico. It's possible, the watchdog groups say, that a federal storage facility could be built in New Mexico to take the waste. They also question the meaning of the word "existing" in Domenici's language, saying it could mean that the LES site itself becomes a storage facility simply by having waste existing at its site.

Richardson said early this year that he would consider withdrawing his support of the LES project unless Domenici included language in federal law specifying that waste be removed from the state.

Last Wednesday, Richardson issued a statement that while he appreciated Domenici's efforts to pass legislation to specify wastes will be removed from the state, the language the senator included in the spending bill was inadequate. Nonetheless, Richardson did not withdraw his support for the facility.

"Sen. Domenici and the state of New Mexico will work together to get an agreement with the company to incorporate language that makes sure the waste

is removed from New Mexico in a timely fashion into the license for the facility," Richardson said.

Alex Flint, staff director of the U.S. Senate Energy and Natural Resources Committee, said Monday that he had been working with Richardson's staff but didn't have time to work out final language before Congress passed an energy and water appropriations bill.

"We very much would have liked to have reached agreement on a proposal that would have addressed all of the governor's concerns," Flint said.

Flint said he's confident that language inserted in the bill by Domenici's staff will require the DOE to move waste from New Mexico. He said existing storage facilities for depleted uranium are in Ohio and Kentucky, and the provision requiring the DOE to take "possession" of wastes from the LES plant will require wastes to be transported to one of those sites.

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Thursday, December 2, 2004

Gov.: Nuclear Factory Near Eunice Must Ship Out Waste
<http://abqjournal.com/paperboy/text/news/state/266044nm12-02-04.htm>

The Associated Press

SANTA FE< Gov. Bill Richardson says he will not support a proposed nuclear fuel factory near Eunice until the federal government guarantees that no radioactive waste from the facility would remain in New Mexico.

His decision means the state will not act on a groundwater discharge permit that Louisiana Energy Services would need to operate the factory.

LES has proposed building the \$1.2 billion uranium enrichment facility five miles east of Eunice to produce fuel for nuclear reactors.

The federal Nuclear Regulatory Commission, which must license the factory, is considering LES's application.

Sen. Pete Domenici, R-N.M., has said a measure he sponsored would ensure that waste from the factory would be sent outside of New Mexico. He added the legislation to a massive spending bill approved by Congress.

"Senator Domenici had good intentions, but the language is inadequate and doesn't fix the problem," Richardson said.

Richardson said he will withhold his support of the project until Congress passes other language that specifies the waste would be removed from New Mexico or until the federal commission issues LES an operating permit that contains binding language to that effect.

"What I am seeking is either very strong language in the license that precludes the waste being stored in New Mexico or very strong language in an appropriations bill next year," Richardson said.

He also said his office is talking to state Attorney General Patricia Madrid about a joint effort concerning the LES project. He declined to say what they are considering.

The state Environment Department and the Attorney General's Office have been rebuffed by the commission's licensing board in their efforts to raise concerns about the factory, including the licensing process for waste disposal.

Domenici said Monday his staff was aware that Richardson would have concerns about the provision Congress has passed.

Domenici said he remains committed to working with Richardson to include language concerning waste disposal in the federal license for the factory.

Marshall Cohen, an LES spokesman, said the company remains confident that it will be able to satisfy Richardson's concerns.

The company believes that the language in Domenici's measure is a good first step, Cohen said.

LES has begun discussions with Richardson's staff about other language that could be included in the federal permit, Cohen said.

Richardson "has had his concerns for a while, and we understand that," Cohen said. "And we're looking for a combination of ways< the statutory language that was in the bill, plus the licensing language< and we'll work with his office very closely to do that."

Cohen said LES expects private industry would build a factory in the United States to process the depleted uranium to make it safe for disposal.

No such facility exists in the country today.

The U.S. Department of Energy has hundreds of thousands of tons of similar waste stockpiled at uranium-enrichment factories in Kentucky and Ohio.

The DOE plans to build its own waste-treatment factories to handle its backlog.

Ohio officials have opposed the prospect of taking waste from the proposed LES factory.

New Mexico Environment Secretary Ron Curry said Tuesday his office has received a groundwater discharge permit application from LES.

The permit application is not yet deemed complete, he said.

Curry said that before his office can consider processing the permit, it must know how long waste from the factory would remain on site.

That won't be clear until the federal licensing process is finished, he said.

Once the permit application is deemed complete, it would go through a public hearing process, Curry said.

--

Geoff Petrie
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Editorial: The Santa Fe New Mexican
December 3, 2004

New Mexicans are being treated to what looks more and more like a nuclear minuet. The dance tune is being played by a European-controlled company already ushered from a couple of other states -- yet given lukewarm attentions from our governor and courted avidly by our senior senator. It's intermission time.

Louisiana Energy Services wants to open a uranium-enrichment plant out near Hobbs. Gov. Bill Richardson has supported the idea, on and off. Right now he's put off by Sen. Pete Domenici. Without so much as a public hearing, the senator has invited the company in -- despite the lack of a clear guarantee that its nuclear waste will be promptly removed from our state.

As part of the convoluted appropriations act Congress approved late last month, the federal Department of Energy would become steward of the plant's waste -- if, by the time the stuff is being generated, private enterprise hasn't built its own waste-treatment facility somewhere. No state we can think of is dying to be that "somewhere" -- so forgive us for figuring that the feds will wind up with it, then find some reason to just leave it here.

The appropriations bill, certain to be signed by the president, carries weasel-words that could be construed to call the Hobbs-area plant an "existing" waste-storage facility if radioactive waste happens to be sitting around. And as long as it's an "existing" storage-ground, why not keep it in existence? Gov. Richardson calls the language inadequate. That's putting it mildly.

Until there's an express guarantee that the waste won't stay here, the governor has put his support for the project on a back burner.

LES needs a groundwater-discharge permit from the state Environment Department to build the plant. Environment Secretary Ron Curry says he needs to know how long nuclear waste will remain on-site before New Mexico even considers the company's application for such a permit.

Don't worry about it, says LES; you have our promise to remove the waste. Domenici also says no se preocupe; we're working on language we'll put in the plant's federal license, making the waste-removal guarantee legally binding.

That's all fine and good -- but the governor and his environment secretary must say

wait until those promises are carved in statutory or regulatory granite -- then we'll consider your groundwater-discharge permit.

After all, Curry's concerns got short shrift from the federal Nuclear Regulatory Commission earlier in the application process -- and Domenici has long been aware of state leaders' misgivings about the downside of creating a nuclear corridor in southeastern New Mexico. He should have written stronger waste-disposal agreements into the appropriations bill.

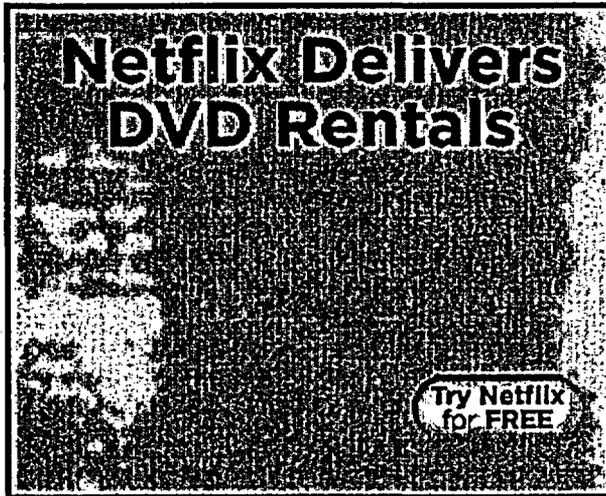
The governor can expect plenty of pressure from Domenici and the rest of the feds: Give us your approval now; we'll make sure everything's jake by the time the plant is built. Think of all the jobs and other economic goodies that go with this plant. Here, y'need a pen? Borrow ours ...

Resist the blandishments, Bill; your instincts are right. This project doesn't have a lot of suitors -- so keep playing hard to get.

Amy Williams
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From: Penny McMullen <pmsl@cnsf.com>
Date: Fri, 03 Dec 2004 10:18:14 -0700
To: kpeterson <kpeterson@abqjournal.com>
Subject: LES, letter to editor

Dear Editor:

The Loretto Sisters' Motherhouse is in Kentucky, and we are well aware of the problems of the Paducah KY nuclear plant and we don't want the same situation to be repeated in New Mexico.

Senator Domenici wants us to believe that having the Department of Energy (DOE) take possession of the nuclear waste from the proposed uranium enrichment plant in Lea County will solve all the waste issues.

But in Kentucky, the DOE has had possession of 700,000 tons of nuclear waste for over 50 years. Cancer rates there are high, the groundwater is contaminated, and Paducah is a veritable wasteland. The federal government has proven in Paducah that they are not worthy of managing tons of dangerous nuclear waste of this kind.

Sen. Domenici's energy committee needs to focus on solving the existing nuclear waste problems before planning to make more. New Mexicans don't want to be burdened with more waste that the feds don't know what to do with.

The Loretto Community thanks Gov. Richardson for withdrawing his support of the uranium enrichment plant in NM.

Penelope McMullen, SL
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P.S. Can this letter be printed in both the Journal North and the Albuquerque editions, since the majority of Loretto Sisters and comembers are in Santa Fe and Albq.? Thanks.

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CCNS NEWS UPDATE

Runs 12/1/04 through 12/8/04

(THEME UP AND UNDER)

This is the CCNS News Update, an overview of the latest nuclear safety issues brought to you every week by Concerned Citizens for Nuclear Safety. Here is this week's top headline:

... Richardson Withholds Support for LES.

* Governor Bill Richardson announced this week that he will withhold his support for the uranium enrichment facility proposed by Louisiana Energy Services (LES) for Lea County, NM due to a lack of a proper waste disposal plan. Governor Richardson's announcement came following the introduction of a provision by Senator Pete Domenici to the federal spending bill that would require the Department of Energy (DOE) to store the waste generated by LES.

The provision states that, DOE will take title and possession of such depleted uranium at an existing [depleted uranium] storage facility.² Critics, including Governor Richardson, are concerned that the LES facility will be considered a depleted uranium storage facility once it is built and begins to store waste from LES. That would allow DOE to leave the waste in New Mexico indefinitely.

Uranium enrichment is a process by which natural uranium is separated into its component isotopes. The resultant uranium-235 becomes fuel for nuclear reactors and uranium-238, or depleted uranium, is waste. This waste must undergo conversion to a chemically stable form before it can be permanently disposed. There is neither a conversion nor a disposal facility in the U.S=