

April 27, 2005

NEF#05-020

ATTN: Document Control Desk
Director
Office of Nuclear Material Safety and Safeguards
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Louisiana Energy Services, L. P.
National Enrichment Facility
NRC Docket No. 70-3103

Subject: Submittal of Affidavit in Support of Application for Withholding Information from
Public Disclosure

- References:
1. Letter NEF#03-003 dated December 12, 2003, from E. J. Ferland (Louisiana Energy Services, L. P.) to Directors, Office of Nuclear Material Safety and Safeguards and the Division of Facilities and Security (NRC) regarding "Applications for a Material License Under 10 CFR 70, Domestic licensing of special nuclear material, 10 CFR 40, Domestic licensing of source material, and 10 CFR 30, Rules of general applicability to domestic licensing of byproduct material, and for a Facility Clearance Under 10 CFR 95, Facility security clearance and safeguarding of national security information and restricted data"
 2. Letter NEF#04-002 dated February 27, 2004, from R. M. Krich (Louisiana Energy Services, L. P.) to Director, Office of Nuclear Material Safety and Safeguards (NRC) regarding "Revision 1 to Applications for a Material License Under 10 CFR 70, "Domestic licensing of special nuclear material," 10 CFR 40, "Domestic licensing of source material," and 10 CFR 30, "Rules of general applicability to domestic licensing of byproduct material"
 3. Letter NEF#04-029 dated July 30, 2004, from R. M. Krich (Louisiana Energy Services, L. P.) to Director, Office of Nuclear Material Safety and Safeguards (NRC) regarding "Revision to Applications for a Material License Under 10 CFR 70, "Domestic licensing of special nuclear material," 10 CFR 40, "Domestic licensing of source material," and 10 CFR 30, "Rules of general applicability to domestic licensing of byproduct material"

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4. Letter NEF#04-037 dated September 30, 2004, from R. M. Krich (Louisiana Energy Services, L.P.) to Director, Office of Nuclear Material Safety and Safeguards (NRC) regarding "Revision to Applications for a Material License Under 10 CFR 70, "Domestic licensing of special nuclear material," 10 CFR 40, "Domestic licensing of source material," and 10 CFR 30, "Rules of general applicability to domestic licensing of byproduct material"
5. Letter NEF#05-009 dated March 3, 2005, from R. M. Krich (Louisiana Energy Services, L. P.) to Director, Office of Nuclear Material Safety and Safeguards (NRC) regarding "Clarifying Information Related to Decommissioning Funding Plan"
6. Letter NEF#05-016 dated March 29, 2005, R. M. Krich (Louisiana Energy Services, L. P.) to Director, Office of Nuclear Material Safety and Safeguards (NRC) regarding "Clarifying Information Related to Depleted UF₆ Disposition Costs and Request for License Condition"
7. Letter NEF#05-017 dated April 8, 2005, R. M. Krich (Louisiana Energy Services, L. P.) to Director, Office of Nuclear Material Safety and Safeguards (NRC) regarding "Clarifying Information Related to Depleted UF₆ Disposition Disposition Costs and Application for Withholding Information from Public Disclosure"

Louisiana Energy Services (LES), L. P., hereby submits an affidavit in support of an application for withholding information from public disclosure pursuant to 10 CFR 2.390, "Public inspections, exemptions, requests for withholding," paragraph (a)(4).

By letter dated December 12, 2003 (Reference 1), E. J. Ferland of Louisiana Energy Services (LES), L. P., submitted to the NRC applications for the licenses necessary to authorize construction and operation of a gas centrifuge uranium enrichment facility. Revision 1 to these applications was submitted to the NRC by letter dated February 27, 2004 (Reference 2). Subsequent revisions (i.e., revision 2 and revision 3) to these applications were submitted to the NRC by letters dated July 30, 2004 (Reference 3) and September 30, 2004 (Reference 4), respectively.

The Reference 5 letter, in part, provided references to supporting documentation for the depleted uranium hexafluoride (UF₆) disposition costs for the National Enrichment Facility (NEF). In a March 17, 2005, conference call between LES and NRC representatives, the NRC requested that clarification be provided concerning the depleted UF₆ disposition costs, including an explanation of development of the UF₆ disposition costs using the references identified in the Reference 5 letter. The Reference 6 letter indicated that some of the supporting documentation and explanation of the development of the depleted UF₆ disposition costs include information that is considered by LES to be confidential (i.e., proprietary) pursuant to 10 CFR 2.390, "Public inspections, exemptions, requests for withholding," paragraph (a)(4). The Reference 6 letter provided the requested information that was not considered by LES to be proprietary. The Reference 6 letter further indicated that the proprietary information would be submitted in accordance with 10 CFR 2.390 (b)(1) in a forthcoming letter. The proprietary

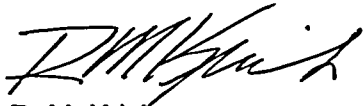
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information, which included supporting documentation and an explanation of the development of the depleted UF₆ disposition costs, was included in the Reference 7 letter.

The affidavit supporting the application to withhold one of the proprietary documents submitted with the Reference 7 letter, the "Memorandum of Agreement between Louisiana Energy Services, L. P. and Waste Control Specialists, LLC," (i.e., MOA) was not available at the time Reference 7 was submitted, and a commitment was made in the Reference 7 letter to submit the affidavit separately. Accordingly, the affidavit of George E. Dials, an authorized representative of Waste Control Specialists, supporting the application to withhold the MOA from public disclosure in accordance with 10 CFR 2.390(b)(1)(iii) is enclosed here.

If you have any questions, please contact me at 630-657-2813.

Respectfully,



R. M. Krich
Vice President – Licensing, Safety, and Nuclear Engineering

Enclosure:
Affidavit

cc: T. C. Johnson, NRC Project Manager

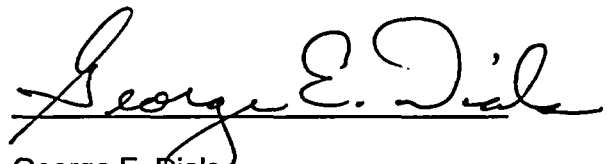
ENCLOSURE

Affidavit of George E. Dials

George E. Dials, being duly sworn, hereby deposes and states as follows:

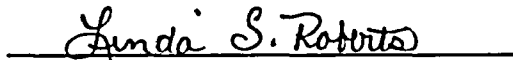
1. My name is George E. Dials. I am the President & COO for Waste Control Specialists (WCS) LLC.
2. I have been authorized by WCS to execute this affidavit in support of Louisiana Energy Service's (LES's) request to withhold the "Memorandum of Agreement between Louisiana Energy Services, LP and Waste Control Specialists LLC" hereinafter referred to as the "Memorandum of Agreement or MOA" from public disclosure in accordance with the Nuclear Regulatory Commission (NRC) regulations appearing at 10 CFR 2.390(a)(4).
3. The MOA is being submitted as a proprietary and confidential document in an attachment to LES letter NEF #05-020 in response an NRC request.
4. The MOA is proprietary and confidential to WCS because it contains commercial information that is not publicly available. Specifically, the MOA sets forth detailed cost information regarding the disposal of depleted uranium.
5. The MOA was developed with the explicit understanding that the document itself and the information contained within it would be treated as proprietary and confidential. WCS has consistently maintained the position that the MOA and the information contained therein be withheld from public disclosure, and in fact WCS has refrained from publicly disclosing the document or its contents. The information sought to be withheld, to the best of my knowledge and belief, is not available in public sources.
6. If the MOA or its contents were publicly disclosed, WCS would suffer irreparable and incalculable harm. Specifically, WCS's competitors would gain valuable insight into otherwise unavailable details of the cost of disposing depleted uranium and related disposal alternatives. By knowing the specific cost and disposal alternatives assessed by WCS for the disposal of depleted uranium, competitors would obtain an unfair commercial advantage which would significantly affect WCS's ability to compete.
7. LES has already provided the non-proprietary cost estimate for the disposal of depleted uranium in other correspondence, e.g., LES letter NEF#05-001 dated January 7, 2005. However, neither the specific details of the MOA nor the MOA itself have been publicly released for the reasons set forth above. Accordingly, withholding the MOA from disclosure will not adversely affect the public. Therefore, the fact that the NRC Staff has requested a copy of the MOA does not warrant public disclosure of the document.

8. Given the inter-related nature of the various portions of the MOA, it is not possible to designate only certain portions of the document as proprietary and confidential. To attempt to redact specific proprietary information would render the remaining material essentially meaningless and of no value to the public. Rather, the entirety of the MOA must be considered proprietary and confidential, and the entire document must be withheld from public disclosure.
9. The MOA is being submitted to the NRC in confidence. The document and the information contained within is of a sort customarily held in confidence by LES and its general and limited partners, and in fact has been held in confidence and not previously publicly released.
10. I have read the foregoing affidavit and the matters stated therein are true and correct to the best of his knowledge, information and belief.



George E. Dials
President & COO
Waste Control Specialists LLC

Subscribed and sworn to before me, a Texas
Notary Public, this 18 day of April, 2005:



My Commission expires: 10-17-2008

