

EDO Principal Correspondence Control

FROM: DUE: 06/16/05

EDO CONTROL: G20050381
DOC DT: 05/20/05
FINAL REPLY:

Representative Adam Smith

TO:

Chairman Diaz

FOR SIGNATURE OF :

** GRN **

CRC NO: 05-0280

Reyes, EDOn

DESC:

ROUTING:

License for Louisiana Energy Services (LES) to
Build a Centrifuge Uranium Enrichment Facility
(Tam Katzin)

Reyes
Virgilio
Kane
Silber
Dean
Cyr/Burns
Zimmerman, NSIR
Mallett, RIV
Outlaw, OCA

DATE: 05/26/05

ASSIGNED TO:

CONTACT:

NMSS

Strosnider

SPECIAL INSTRUCTIONS OR REMARKS:

Coordinate response with NSIR.

ADAM SMITH

9TH DISTRICT, WASHINGTON

227 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-8901

DISTRICT OFFICE:

1717 PACIFIC AVENUE, #2135
TACOMA, WA 98402
(253) 683-6600

TOLL FREE 1-888-SMITH09

e-mail: <http://www.house.gov/writerep/>
<http://www.house.gov/adamsmith/>

Congress of the United States
House of Representatives
Washington, DC 20515-4709

COMMITTEE ON ARMED SERVICES
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ASIA AND THE PACIFIC
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NEW DEMOCRAT COALITION

May 20, 2005

Nils Diaz
Chairman
Nuclear Regulatory Commission
11555 Rockville Pike
Rockville, Maryland 20852

Dear Chairman Diaz,

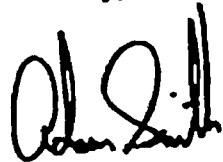
I am writing on behalf on my constituent, Tam Katzin, and concerns for Urenco. It has come to my attention that the Nuclear Regulatory Commission (NRC) is currently reviewing a license for Louisiana Energy Services (LES) to build a centrifuge uranium-enrichment facility in New Mexico. Based on the attached article from Sierra Magazine, Urenco had their secret blueprints and manuals stolen by Dr. Abdul Qadeer Khan, who helped Pakistan build their first nuclear bomb.

I request that the NRC provide: 1) an update on the status of LES's request for a license; 2) which company will be building and managing the New Mexico plant should the license be approved and 3) evidence of NRC's efforts to evaluate the national security risk in building the facility.

I appreciate your prompt attention to this request. Please respond directly to my constituent and provide my district office, located at 1717 Pacific Ave #2135, Tacoma, WA 98402, a copy of the letter.

Tam Katzin
4762 Whitworth Place South, P-102
Renton, WA 98055-8359

Sincerely,



Adam Smith
Member of Congress

AS:tlj

Enclosure



sierra magazine Dangerous Liaisons

By Marilyn Berlin Snell
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The company whose nuclear secrets leaked to Iran and North Korea now wants to bring its know-how to New Mexico. What will be the fallout?

"The biggest threat facing this country is weapons of mass destruction in the hands of a terrorist network."
— George W. Bush, presidential debate, September 30, 2004

by Marilyn Berlin Snell

"The biggest threat facing this country is weapons of mass destruction in the hands of a terrorist network."
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Three decades ago, a brilliant young Pakistani metallurgist named Abdul Qadeer Khan managed to steal highly classified nuclear secrets while working in Amsterdam. It was a theft that would first shake Pakistan's Chagai Hills test site, and ultimately the rest of the planet. Working for a firm that contracted with Urenco, a Dutch-German-British company that provides uranium-enrichment services to nuclear power plants, Khan had access to Urenco's secret blueprints and manuals. He learned how to enrich uranium in centrifuges to make fuel for nuclear power plants but also for weapons. He took what he learned back to Pakistan, enriched uranium at the Dr. A. Q. Khan Research Laboratories, and helped his country build its first nuclear bomb.

Last year, Khan confessed to selling his nuclear know-how not only to Pakistan but also to North Korea, Libya, and Iran. The New York Times called his handiwork "the largest illicit nuclear proliferation network in history." Khan and the global nuclear black market he spawned are directly responsible for the current standoff over Iran's plans to build a centrifuge uranium-enrichment plant. The United States has charged that the facility, based on Urenco blueprints, is not for peaceful purposes but for building nuclear warheads. Now Pakistan has put Khan under house arrest, but the company that allowed the world's worst nuclear-security leaks is prospering. U.S. energy companies have invited Urenco to build the same type of uranium-enrichment plant in New Mexico that Iran wants, using a technology so dangerous that the United Nations has proposed a worldwide five-year ban on it so that better safeguards can be implemented. Nonetheless, powerful politicians and company executives are pushing for approval of the United States' first centrifuge uranium-enrichment plant, while the Nuclear Regulatory Commission - the agency responsible for licensing such facilities - is ignoring both Urenco's past and the UN's concerns about the technology's future. The plant's boosters are perilously out of step with a world fundamentally different from the one that existed when the NRC was created from the Atomic Energy Commission 30 years ago. Like cold war-era schoolchildren crouching under their desks for a duck-and-cover drill, believing that somehow a little wood and metal would protect them in a nuclear attack, they are relying on a licensing process that ignores the grave reality of 21st-century threats.

When the first atomic bomb was detonated at New Mexico's White Sands Missile Range in 1945, there was a blinding burst of light followed by a deep growling roar as the explosion mushroomed skyward. The genie loosed that humid July morning - "a great new force to be used for good or for evil," Brigadier General Thomas Farrell, of the Manhattan Project, called it - has since circled the globe, with the development of nuclear power succeeding nuclear weapons.

In addition to the United States, there are now six other documented nuclear states: Russia, China, France, United Kingdom, India, and Pakistan. North Korea's status is uncertain, and Israel is thought to have nuclear weapons but has not admitted it. Several other nations, including Iran, are feared to possess the technology to build nuclear bombs. (Before the 1991 Gulf War, Iraq was also a threat, as was Libya, until it handed over its technology to the United States last year.) Terrorist organizations like Al Qaeda have called the acquisition of weapons of mass destruction a "religious duty."

Though the 1970 Nuclear Non-Proliferation Treaty (NPT) has helped reduce nuclear arsenals and the further spread of nuclear weapons, it is today being tested as never before. One problem with Iran's proposed enrichment facility is that, unlike the older, gaseous-diffusion technology to enrich uranium, centrifuge plants can be much smaller and use much less energy, making them harder to detect. Centrifuge plants, of which there are only a handful worldwide, can also be easily and covertly retrofitted to produce weapons-grade uranium, the key component in nuclear warheads. Once you have the centrifuge equipment in place, says Ivan Oelrich, an expert on proliferation for the Federation of American Scientists, all you have to do is "adjust the plating of the centrifuges" to further enrich fuel-grade, which contains 3 to 5 percent of the uranium isotope 235, into bomb-grade, which is 90 percent U-235.

The "dual use" potential for centrifuge uranium-enrichment facilities is the basis for a 1983 call by the prestigious Stockholm International Peace Research Institute for a worldwide, permanent ban on centrifuge technology. But the technology continues to be attractive to the nuclear power industry. The two gaseous-diffusion plants operating in the United States use massive amounts of electricity. With the much more efficient centrifuge technology, costs of nuclear-reactor fuel production could come down exponentially.

If price and efficiency were the only factors, centrifuge uranium-enrichment would be a no-brainer. Unfortunately, according to Matthew Bunn of Harvard's Belfer Center for Science and International Affairs, it's also "the technology of choice for the determined nuclear cheater and people with few scruples."

In 2001, A. Q. Khan was interviewed at his home in Islamabad for John Friedman's 2002 documentary *Stealing the Fire*. He spoke calmly about his role as the "father" of Pakistan's bomb, defending his thievery as a necessary means to protect his country. The interview is chilling - all the more so because the nuclear secrets Khan stole are unrecoverable. "Today, people including President Bush say that the Khan network is finished," Friedman told me. But they don't understand that Khan set up an ongoing procurement system. "The technology is out there, and as long as there are buyers, there are sellers."

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Of course New Mexico isn't Iran or North Korea. Presumably safeguards will be in place that would make U.S. technology less vulnerable. But plans and materials could still be stolen, as they were in Amsterdam. Moreover, if "responsible" nuclear states like the United States insist on using centrifuges to enrich uranium for their nuclear power plants, why shouldn't Brazil - which reportedly got the technology from the West German branch of Urenco in the 1970s, in violation of the NPT - or Iran, or any other aspiring nuclear state? If centrifuges become the technology of choice for nuclear-reactor fuel, it will be impossible to prevent the technology's spread.

The \$1.2 billion New Mexico project is proposed by Louisiana Energy Services, a consortium made up of Westinghouse, Entergy, Exelon, Duke Energy, and Urenco, the latter of which owns a 70 percent share and possesses the classified information necessary to build the plant. LES vice president Rod Krich, "on loan" from Exelon, claims that the facility poses no proliferation threat. "We have agreed to IAEA safety inspections," he says, referring to the UN's nuclear watchdog, the International Atomic Energy Agency. "And we have designed the plant so that it's impossible to enrich the uranium to weapons-grade." The plant could be retooled to produce highly enriched uranium, of course, but that's not what its critics are worried about. The problem is that no one knows whether the 21st-century Urenco has plugged its security leaks.

"[Urenco's] technology was stolen a long time ago and a lot has changed since then," says Bruce Moran, an NRC staffer who monitors international nuclear safety. When asked to explain exactly what Urenco had done to ensure that its classified nuclear secrets were secure, a Urenco spokesperson told me that since the New Mexico plant will be an "LES enrichment facility," I would need to speak with LES (even though, according to an LES spokesperson, the centrifuges will be assembled on-site by Urenco security-cleared contractors). I then asked LES vice president Marshall Cohen what had changed since A. Q. Khan's day to close security loopholes. Cohen didn't know offhand but repeatedly assured me, in calls, by e-mail, and in person, his company would provide an answer. It never did.

The UN's proposed five-year moratorium on the construction of centrifuge uranium-enrichment facilities is an effort to stop the threat of what a UN commission has called a "cascade of proliferation." The idea has been praised from quarters as unlikely as the conservative National Review magazine, never a fan of the UN. "It buys the world time to reevaluate the effectiveness of the current set of nuclear rules," wrote Henry Sokolski, executive director of the Washington, D.C.-based Nonproliferation Policy Education Center in the January issue. Given the European leaks that unleashed the nuclear genie in Pakistan, Iran, and North Korea, Sokolski emphasized that all states, not just "trouble states like Iran," should honor the moratorium.

Louisiana Energy Services has tried and failed twice before to build a uranium centrifuge facility in the United States. Low-income communities, first in Louisiana and then in Tennessee, needed the jobs but not the radioactive waste or airborne toxics produced by the facility, and ran the consortium out of town.

The third try may be the charm. In Hobbs, New Mexico, a boom/bust oil town of 28,000, the public is noticeably absent from February public hearings before the NRC's Atomic Safety and Licensing Board Panel, which will recommend whether to license the LES plant. City officials are solidly behind the idea, and local residents are desperate for new jobs. "Very few people have gone to these public hearings," says Rose Gardner. "They trust our leaders to make the right decisions." Gardner, 46, owns Desert Rose Flowers and Gifts in the tiny town of Eunice, 20 miles from Hobbs and 5 miles from the proposed site. On the first day of the weeklong hearings, she and retired Hobbs businessman Lee Cheney are the only members of the audience not associated with either the media or LES.

Each morning of the hearings, Gardner makes the trek from Eunice to Hobbs, shuttering her flower shop the week before Valentine's Day, her busiest season. "When I heard about the plant, I went to the LES office and asked for more information. They treated me like an imbecile. That was a mistake." Gardner has a soft voice and a powerful Tex-Mex accent. She's more soccer mom than rabble-rouser, but in 2004, when she began getting bits and pieces of news about the company that wanted to come to Eunice, something didn't sit right. When she couldn't get the information from LES, she went online. "I typed 'uranium enrichment,'" she says. "That's when my education began."

The drive between Eunice and Hobbs is flat and empty but for scrub mesquite, pump jacks, and gas storage tanks. The air is often thick with hydrogen sulfide, released when methane is pumped out of the wells. "It's why we're called the armpit of New Mexico," Gardner says with a crooked smile. "It smells like rotten eggs." Her father was a roustabout in the oilfields that encircle Eunice. Born and raised there, Gardner was a pumper for a while with Conoco and married a boy who had lived so close to her growing up that she "could throw a stick at him anytime I wanted to." She and her husband raised two daughters. The Gardners and the other 2,700 residents of Eunice are bookended by Dynegy natural-gas processing plants on the north and south sides of town. At the town's center flies a massive American flag; it could easily envelop the average Eunice home. Gas flares in the hazy distance lend a sci-fi aura of a ruined future. Yet Gardner loves where she lives. "It's all I know," she says. Gardner went to her city council representatives and politely suggested they show up and get an education at the Hobbs hearings. Her husband, a city council member himself, has frequently been subjected to her chastisements about getting involved; she's on a mission and family members aren't exempt. "Proverbs 25:15 says patient persuasion can break down the strongest resistance and can even convince rulers," she says.

Gardner has environmental concerns about the facility, "but proliferation is the most important thing," she tells me one afternoon as we drive from Eunice along a section of highway that's been "adopted" by Warren Petroleum. "Homeland Security is constantly telling us to be prepared, be ready, and yet my little town is welcoming a company that possesses the very technology that terrorists want. In all good conscience, I can't welcome this plant. I don't know where else it can go, but I know I don't want it here."

The NRC's three-member panel spends the week listening to expert testimony, asking tough and technical questions of witnesses on both sides of the issue. Their queries involve everything from whether there are interconnected geologic fractures that would spread contaminated material into underground waterways to whether the company has a safe way to dispose of its radioactive waste. (The board will release its findings on these environmental issues in June.)

"It's a great process," says LES's Krich, adding that he's satisfied "all the important decisions are being addressed." But legal proceedings last year limited what could be discussed at these hearings. Two proliferation issues were ruled out-of-bounds by the NRC: the advisability of allowing Urenco to operate on U.S. soil, given its security lapses; and whether having a larger domestic fuel supply would slow U.S. efforts to deal with the huge stockpiles of weapons-grade uranium in Russia. That nation has 600 tons of poorly secured nuclear material, and Russian officials reported four incidents of "terrorist reconnaissance" of the stockpiles in 2001. Since 1993, the United States has been buying Russia's stockpiles, supplying it with needed currency while removing a sought-after ingredient for terrorists bent on nuclear mayhem. The Bush administration has acknowledged the importance and success of this program, calling it "a key element of U.S. nonproliferation policy." Dubbed "Megatons to Megawatts," it's also an excellent source of reactor fuel. Just as uranium can be

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enriched, the process can work the other way as well: Weapons-grade uranium can be "downblended" to create the less potent uranium used in reactors.

Lindsay Lovejoy, a Santa Fe attorney representing two Washington, D.C.-based groups, the Nuclear Information and Resource Service and Public Citizen, contends that the LES plant would slow Russia's stockpile reduction, since there would be less demand for Russia's product. Other experts aren't so sure. Harvard's Matthew Bunn, for one, says that New Mexico's current plans "are modest compared to the scale of Russia's stockpiles. From a nonproliferation point of view, it's not a huge problem if New Mexico goes ahead with the plant." Each year, Russia provides 5.5 million "separative work units," or SWUs, of low-enriched uranium to the United States; LES would produce 3 million SWUs. Bunn adds, however, that there might be a problem if both LES and a similar centrifuge plant proposed for Piketon, Ohio, were green-lighted.

Where the truth in this debate lies is apparently irrelevant to the NRC. In opening remarks to the panel, Lovejoy was forced to reduce his arguments on the Urenco and Russia connections to two sentences: "There are matters of the highest national importance, including the proliferation impact of this facility, that can't be addressed here but that should be," Lovejoy warned. "I hope someone is thinking about these issues." The three-judge panel thanked him and moved on.

The NRC's decision to limit debate "was disappointing but not surprising," says Amy Williams, co-coordinator for Concerned Citizens for Nuclear Safety in Santa Fe. "The NRC looks at licensing issues in a very black-and-white way." Proliferation is "outside the scope" of the very agency with the power to approve nuclear-plant licenses. The limiting of public debate has troubled New Mexico governor Bill Richardson (D), who released a statement last August criticizing the agency's refusal to consider important issues in the LES application, including "the adequacy of proliferation safeguards related to foreign ownership."

This Achilles heel worries Nuclear Information and Resource Service executive director Michael Marriotte as well. "The NRC doesn't have any mechanisms set up to examine national-security issues in this kind of context," he says.

The NRC's project manager for the New Mexico plant, Tim Johnson, is impatient when asked to explain the apparent lapse. Proliferation "has nothing to do with the licensing for this facility... it's not part of the decision that we're making." He adds that if such issues were a concern they would be investigated by the Department of Energy as part of the NRC's licensing process. Yet the DOE has already expressed its support for the LES plant. "They said it was in our national interest to have another [enriched uranium] supply located in this country," Johnson says.

"The trouble with secrecy is that it denies to the government itself the wisdom and the resources of the whole community."
- J. Robert Oppenheimer, father of the atomic bomb, 1955

Though proliferation is off the table in the LES bid, the NRC has shown an interest in homeland security - but in ways that have infuriated opponents of the plant. For example, the company was allowed to argue at the hearing that it would provide domestic "energy security," protecting the country in the event of disruptions of foreign fuel supplies. (Never mind that LES is merely the American face of a company dominated by foreign-owned Urenco.)

Homeland security has also been invoked to hide frightening facts. Announcing that it needed to screen for "terrorist-useful information," last October the NRC shut down public access to most of the documents on its Web site - many of which contained information relevant to the LES license application. Representative Edward Markey (D-Mass.), a member of both the Energy and Commerce Committee and the Select Committee on Homeland Security, immediately questioned the move. In a letter to the NRC's chair, Markey wrote, "I am concerned that the Commission may now be using security as an excuse to further erode the public's right to find out about and participate in the Commission's activities."

Says the NRC's Johnson, "The potential for terrorism justified removing [certain] material," adding that information was scrubbed that might have helped terrorists "identify where they could do the most damage."

"That's a bunch of baloney," says Don Hancock, director of the Southwest Research and Information Center's nuclear-waste program. The missing files included floor plans and accident analyses, "including such 'terrorist-related' activities as the impact of an earthquake," he says. The now-absent material also noted that if a rail accident involving a shipment of radioactive waste from the facility occurred in an urban area, approximately 26,000 people could suffer adverse health effects, and if an accident involving uranium hexafluoride gas occurred on-site, there would be at least seven "latent cancer fatalities" from exposure.

Peter Brand is an investigator with the Project on Government Oversight, a watchdog group in Washington, D.C. "It's safe to say that, like most government agencies, the NRC overdoes the 'we need this to be secret to keep you safe' thing," he says. "Those 19 guys on September 11 weren't using specific information on Web sites. They just cased security and figured out what they could do." Adds Hancock, "If on the one hand LES is not a dangerous facility, then it's of no use to terrorists." If it is dangerous, "they should legally and morally tell the public what the real risks and impacts are."

In December the NRC ruled that if outside groups want to see the uncensored documents, they will have to sign confidentiality agreements promising not to disclose the information. (Though some expert witnesses have signed the agreements in order to prepare their testimony in opposition to the LES facility, no one else has yet signed away their freedom of speech to gain access to what until a few months ago were public documents.)

According to Hancock, the NRC is focusing on the wrong threats and ignoring the most salient national-security issues. So is Congress. "Congress is taking a basically hands-off approach; that LES is a private enterprise and under NRC jurisdiction so there's no point in intervening," he says. To the degree that there has been intervention, it has been boosterism on the part of Pete Domenici (R-N.Mex.), the powerful chair of the Senate Committee on Energy and Natural Resources. In 2003, the senator pledged to aid LES by working "at all levels to help get through the long permit and regulatory process." He then praised LES partner Urenco and its history of uranium enrichment in Europe. Of Urenco's past performance, he added, "We can expect as much here."

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Domenici inserted language into the Energy Policy Act of 2003 that would "limit the consideration of need" for uranium-enrichment plants to whether they would advance both energy security and "the deployment of advanced centrifuge enrichment technology." He also added wording that speeds up the application process for such plants to no more than two years, and forces the U.S. government to take responsibility for the facility's radioactive waste. The energy bill will most likely be resubmitted in 2005.

Arizona's Republican senator John McCain was outraged by the action. "[It] would suspend important environmental reviews to facilitate the construction of uranium-processing facilities in New Mexico," McCain said, and added, "Even more disturbing, . . . Urenco has been associated with leaks of uranium-enrichment technology to Iran, Iraq, North Korea, and Pakistan."

Senator Domenici is an old friend of the energy industry. He was the top Senate recipient of money from electric utilities (which include nuclear power plants) during the 2002 election cycle. According to the Center for Responsive Politics, he received more than \$175,000 from electric utilities alone, and more than \$400,000 from the energy and natural-resources sector overall.

In interviews with the Santa Fe New Mexican, Domenici has expressed a desire to create a "nuclear corridor" along a 60-mile stretch of the Texas-New Mexico border, where radioactive waste dumps and the LES facility would support existing nuclear power plants and new plants around the country. Though no new nuclear power plants have been ordered since 1978, plans are now in the pipeline to relicense 18 reactors at 9 power plants nationwide. The LES centrifuge project would fuel the renaissance. "American utilities are fully supportive," says LES's Cohen. "We already have sales contracts, even though we're years from being able to provide enriched uranium."

Plant executives, and even the NRC's point people, talk about energy security, but they are really focused on what the New Mexico plant will do for the nuclear power industry. So focused, in fact, that they refuse to acknowledge what it could do for nuclear proliferation. With regard to the moratorium proposed by the UN's International Atomic Energy Agency, they simply argue that the United States is exceptional. LES executives Cohen and Krich as well as the NRC's Moran and Johnson each assured me individually that the United States would be exempt. "The IAEA has stated that [the moratorium] proposal is not intended to cover countries, such as the U.S., that already have enrichment capabilities," says Cohen.

In a piece written for London's Financial Times shortly before the New Mexico hearing, however, the IAEA's director general, Dr. Mohamed ElBaradei, stated unequivocally that all countries should honor the moratorium, which would present a rare opportunity to cool tensions with Iran. (The proposal will be debated during a May meeting at the United Nations to review the Nuclear Non-Proliferation Treaty.)

"The [United States] seems to have a double standard; it is determined to have other governments bend to its will when it comes to proliferation but is not willing to accept the same standards for itself," says Lawrence Wittner, a professor of history at the State University of New York, Albany, and author of the 2003 book *Toward Nuclear Abolition*. "The view that there are evil nations and virtuous ones scraps the earlier universalistic aspects of nuclear arms control and disarmament."

Three international crises of the Bush presidency - Iraq, North Korea, and Iran - were all fueled by fears of centrifuge programs. Remember those aluminum tubes? Vice President Dick Cheney argued for an invasion of Iraq based on outdated information that Saddam Hussein was "trying, through his illicit procurement network, to acquire the equipment he needs to be able to enrich uranium." Iraq's weapons program - based on centrifuge information reportedly provided by German scientists who had worked for a Urenco subcontractor - had been set back at least a decade by the Gulf War. Iraq posed no imminent nuclear threat. But there are other Saddams, who would like nothing better than to get their hands on nuclear warheads. It would be tragic if the smoking gun - the proof that there is no fail-safe way to use centrifuge enrichment technology - came in the form of a mushroom cloud.

Marilyn Berlin Snell is Sierra's writer/editor. Her last investigative piece, "The Cost of Doing Business," appeared in our May/June 2004 issue.

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