

June 17, 2005

The Honorable Peter J. Visclosky  
United States House of Representatives  
Washington, DC 20515-1401

Dear Congressman Visclosky:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your letter, dated May 12, 2005, in which you requested that the NRC address concerns raised by a constituent, Mike Dubrick, regarding the review of the Louisiana Energy Services' (LES') license application for a gas centrifuge uranium enrichment plant to be located in the State of New Mexico. Your constituent raised concerns regarding nuclear proliferation and other national security threats that your constituent believes are posed by this proposed nuclear facility. Your constituent believes that building the plant could undermine global nuclear nonproliferation efforts such as the U.S. agreement with Russia to purchase enriched uranium. Your constituent is also concerned about the adequacy of national security reviews of the proposed licensee and Urenco, and about Urenco's involvement in a prior loss of gas centrifuge technology information at its facility in the Netherlands.

Both in the U.S. and internationally, there have been significant improvements in safeguards, security, technology control measures, and related oversight technologies at licensed nuclear facilities over the past three decades. In addition, there are ongoing efforts to review and improve existing security and nonproliferation regimes. The following is a description of safeguards, security, and technology control requirements with which the LES centrifuge facility must comply.

As part of the NRC staff's licensing review of the LES license application, the staff is evaluating a number of safeguards and security measures. Regulatory requirements applicable to the LES centrifuge facility are found in Title 10 of the Code of Federal Regulations (10 CFR) Parts 25, 73, 74, 75, 95, 110, and 810 (Note that 10 CFR Part 810 is a U.S. Department of Energy [DOE] regulation). These regulations provide for security clearances, physical protection of nuclear materials, nuclear material control and accounting requirements to assure that uranium is not stolen or enriched to higher levels than authorized, international safeguards, protection of classified information, and restrictions to ensure centrifuge technology does not become available to other countries. The information security requirements are the same requirements applicable to any entity having access to classified information in the U.S.

The Atomic Energy Act of 1954, as amended, does not prohibit a foreign-owned entity to own and operate a uranium enrichment facility. In addition, an agreement among the United States, the United Kingdom, the Netherlands, and Germany authorizes the transfer of the Urenco centrifuge technology to the United States.

The findings of the staff's review of the LES license application and related documents, including documents addressing safeguards and security issues, are documented in the staff's Safety Evaluation Report (SER) and the Environmental Impact Statement (EIS). The staff issued a draft EIS in September 2004, and a final EIS on June 14, 2005. In addition, the DOE conducted a Foreign Ownership, Control, and Influence (FOCI) review of the application. The purpose of the FOCI review is to assure that U.S. national security information is appropriately controlled. The NRC and DOE are evaluating the potential national security risks of constructing and operating the proposed centrifuge enrichment facility. Before issuing a license, the NRC must determine that the licensed activity would not be inimical to the common defense and security, and would not constitute an unreasonable risk to the health and safety of the public. Matters such as nuclear nonproliferation are addressed through commitments under the Nuclear Non-Proliferation Treaty, the U.S.-International Atomic Energy Agency (IAEA) Safeguards Agreement, and agreements for nuclear cooperation between the U.S. and certain other countries. The cooperation agreements ensure that nuclear materials and equipment imported to and exported from the U.S. will be protected in accordance with international standards and will be subject to the relevant IAEA Safeguards Agreement.

Under the U.S.-IAEA Safeguards Agreement, all U.S. facilities not of direct national security significance are placed on the U.S. list of facilities eligible for IAEA safeguards inspections (Eligible Facilities List). In 1983, the U.S. committed to make all commercial centrifuge enrichment plants in the U.S. eligible for IAEA safeguards inspections. In 2004, the LES facility was added to the Eligible Facilities List. The IAEA is expected to select the LES facility for safeguards inspections before the plant begins operations. The objectives of the IAEA inspections are to ensure (1) timely detection of diversion from a plant's declared nuclear material flow, (2) timely detection of facility misuse to produce undeclared product from undeclared feed, (3) timely detection of the production of highly enriched uranium, and (4) timely detection of undeclared enrichment activities at the enrichment plant site. The IAEA is expected to inspect the facility, if licensed, several times a year when the LES facility becomes operational. It is noteworthy that the Netherlands is also a signatory to the Nuclear Non-Proliferation Treaty and is subject to IAEA safeguards inspections of its nuclear facilities.

Your constituent also expressed a concern about any potential impacts of the LES facility on the U.S. agreement to reduce Russian weapons-grade uranium (the Megatons-to-Megawatts program). The purpose of this program is to reduce nuclear weapons stockpiles from the U.S. and the Russian Federation, and to convert weapons-grade material into low-enriched nuclear fuel for commercial reactors. The program is scheduled to expire in 2013. The added production capacity of low-enriched uranium from the LES facility is not expected to undermine the Megatons-to-Megawatts program. This is because the LES facility, if licensed, will not be fully operational until 2013 and, as presently designed, will not produce sufficient amounts of low-enriched uranium to significantly affect the overall supply of enriched uranium.

Over the past 30 years, and particularly after the terrorist attacks of September 11, 2001, there have been marked advances in and an increased focus on the safeguards and security of nuclear facilities and materials in the U.S. and worldwide. The NRC has a key role in assuring that any new commercial nuclear facility built in the U.S. meets stringent safeguards and security requirements. These requirements are continually reviewed to incorporate improvements and lessons learned from regulating existing facility operations.

The concerns of your constituent will be added to the LES docket file. Thank you for your interest in this important matter, and I hope that the information provided adequately addressed your concerns. Please contact me if you have additional questions.

Sincerely,

*/RA/*

Luis A. Reyes  
Executive Director  
for Operations

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