

October 7, 2005

DOCKETED  
USNRC

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

October 7, 2005 (11:00am)

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

In the Matter of: )  
Louisiana Energy Services, L.P. )  
(National Enrichment Facility) )

Docket No. 70-3103-ML  
ASLBP No. 04-826-01-ML

MOTION IN LIMINE ON BEHALF OF LOUISIANA  
ENERGY SERVICES, L.P. CONCERNING THE EXHIBITS OF  
NUCLEAR INFORMATION AND RESOURCE SERVICE AND PUBLIC CITIZEN

I. INTRODUCTION

Pursuant to 10 C.F.R. § 2.704(c)(3), Louisiana Energy Services, L.P. ("LES") hereby submits this motion in limine. LES moves to exclude specific exhibits included in the September 23, 2005 exhibit list submitted by Nuclear Information and Resource Service and Public Citizen ("NIRS/PC" or "Intervenors") purportedly associated with the direct testimony of witness Arjun Makhijani, on the ground that the exhibits are not relevant to, and/or outside the scope of, the admitted NIRS/PC contentions. Furthermore, based upon consideration of the inconsistencies and omissions among the various sets of documents and exhibits submitted by the Intervenors and their expert over the course of the proceeding, LES moves to exclude certain exhibits as overly burdensome and wasteful of Board and party resources.

II. BACKGROUND

In their July 19, 2005, response to interrogatories filed by LES, NIRS/PC described the set of documents on which it intended to rely in the hearing ("Interrogatory Exhibit List"). Subsequently, on September 16, 2005, in accordance with the Board's September 2nd

Order, NIRS/PC submitted prefiled direct testimony on issues pertaining to LES's strategy and associated cost estimate for the commercial dispositioning of DU from the proposed National Enrichment Facility ("NEF") in connection with admitted Contentions NIRS/PC EC-3/TC-1 (Depleted Uranium Hexafluoride Storage and Disposal), NIRS/PC EC-5/TC-2 (Decommissioning Costs), and NIRS/PC EC-6/TC-3 (Costs of Management and Disposal of Depleted Uranium). In that testimony, Dr. Makhijani referenced a variety of documents ("Prefiled Testimony Exhibit List"), including many that were not originally listed in the Intervenor's response to interrogatories. Later, on September 23, 2005, the Intervenor submitted a new exhibit list which, pursuant to the Board's September 22, 2005 Memorandum and Order (Additional Administrative Matters), should contain all exhibits on which Intervenor intend to rely upon to support their affirmative case ("Hearing Exhibit List"). This Hearing Exhibit List includes entirely new documents not previously referenced in either the Interrogatory Exhibit List or the Prefiled Testimony List and also omits documents directly referenced in Dr. Makhijani's prefiled testimony. On October 4, 2005, the Board denied an LES motion to dismiss several of the Intervenor's contentions, but granted, in part, the motions in limine filed by LES and the Staff with respect to portions of the Intervenor's prefiled direct testimony.<sup>1</sup>

### III. ARGUMENT

Parties to a proceeding have a "manifest and iron-clad obligation of candor" as well as an obligation to present complete and accurate information to the Board and other parties.<sup>2</sup> The consequences of a failure to provide accurate information are especially acute where, as here, the proceeding involves complex technical and financial issues requiring the

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<sup>1</sup> See Memorandum and Order (Ruling on In Limine Motions and Motion to Dismiss), at 2 (unpublished) (October 4, 2005) ("October 4 Order").

<sup>2</sup> *Pub. Serv. Co. of Oklahoma* (Black Fox Station, Units 1 & 2), ALAB-505, 8 NRC 527, 532 (1978).

services of experts. There is considerable time and expense involved in gathering various exhibits, initiating expert reviews of exhibits, formulating responses, and preparing rebuttal testimony. Yet, in their response to interrogatories, as part of their prefiled direct testimony, and in their hearing exhibit list, the Intervenors and their expert have provided three significantly different, though partially overlapping, lists of documents on which the Intervenors claim they intend to rely to support their contentions. As a result, the other parties and the Board are left to sort out the confusion created by these three conflicting sets of exhibits.

Upon examining these different sets of exhibits, it becomes apparent that the inadequacies fall into several different categories. Some documents referenced by Dr. Makhijani in his prefiled testimony are not included in the associated exhibit list, while other documents included on the exhibit list are referenced nowhere in the testimony. Such a simultaneously over- and under-inclusive exhibit list is contrary to the Board's direction that parties file all exhibits "proffered in connection with the parties' prefiled direct testimony."<sup>3</sup> The Intervenors' failure to coordinate their testimony and exhibits also runs afoul of the principle that a party should segregate those exhibits which a party expects to offer and those it may offer if a need arises. 10 C.F.R. § 2.704(c)(1)(iii). The Intervenors' failure to produce consistent lists of documents on which they intend to rely, coupled with the Intervenors' apparent disregard for the relevance of exhibits to issues within the scope of the proceeding, creates a significant burden on the other parties as well as the Board. The lack of focus and inconsistency among the various exhibit lists suggests, at best, that the Intervenors' exhibit list is a "document dump" needlessly including many useless or only tangentially relevant exhibits, or, at worst, that the Intervenors

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<sup>3</sup> September 14, 2005 Memorandum and Order (Regarding Administrative Matters Relative to October 2005 Evidentiary Hearing), at 3 (unpublished).

are purposefully endeavoring to distract the parties' experts to mask the lack of support for their arguments.

In any event, upon examining the Intervenors' Hearing Exhibit List, it is clear that numerous exhibits should be excluded for at least one, if not several, reasons. As discussed below, many of the Intervenors' exhibits are not material to the issues involved in the proceeding and are therefore inadmissible. Other exhibits, to the extent their possible relevance can be imagined, are not proffered in connection with any portion of the Intervenors' prefiled testimony. Finally, some exhibits, even if they are determined to be relevant, seem designed to mislead or induce unnecessary expenses with respect to review by LES experts.

A. Legal Standards Governing the Admissibility of Evidence in NRC Proceedings

NRC regulations governing the admission of evidence provide that "[o]nly *relevant, material, and reliable* evidence which is not unduly repetitious will be admitted. Immaterial or irrelevant parts of an admissible document will be segregated and excluded so far as is practicable." 10 C.F.R. § 2.337(a) (emphasis added). "Relevant" information is information that has some "legal probative value," *i.e.*, that tends to prove or disprove a fact that is of consequence to the legal outcome of the case. *See, e.g.*, FED. R. OF EVID. 401; *United States v. Hall*, 653 F.2d 1002, 1005 (5th Cir. 1981). In this regard, the Commission has emphasized that "[its] own longstanding practice requires adjudicatory boards to adhere to the terms of admitted contentions,"<sup>4</sup> and that "[w]here an issue arises over the scope of an admitted contention, NRC opinions have long referred back to the bases set forth in support of the

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<sup>4</sup> *Louisiana Energy Services, L.P.* (Claiborne Enrichment Center), CLI-98-3, 47 NRC 77, 105 (1998) (citation omitted).

Intervenors' original contention."<sup>5</sup> Accordingly, where a party lists exhibits related to issues that are outside the scope of any admitted contention, those exhibits should be excluded, particularly where, as here, the Board has explicitly excluded such issues as inadmissible. Similarly, exhibits which are not offered to prove any fact at issue in the proceeding, *i.e.*, exhibits that are not material, lack relevance and should also be excluded.

The Federal Rules of Evidence include an additional mechanism to protect parties from being overwhelmed by excessive, burdensome, or misleading exhibits. Rule 403 provides that "although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence." FED. R. OF EVID. 403. This rule sets up a balancing test whereby the probative value of an exhibit is weighed against the potential burden to the parties or the Board in evaluating the exhibits. In short, the rule is designed – among other things -- to preclude one party from obfuscating the issues or impeding the orderly conduct of the proceeding through a "document dump" on the other parties.

B. Bases for Excluding Certain Exhibits in the NIRS/PC Hearing Exhibit List

In their hearing exhibit list, NIRS/PC includes numerous documents that should be excluded because they lack relevance, exceed the scope of the admitted NIRS/PC contentions, and contravene prior Board rulings in this proceeding, including the October 4 Order. Moreover, many of the exhibits are "unduly repetitious" insofar as they discuss the *same* inadmissible issues over and over. The issues identified below have no place in this proceeding, and to the extent the Intervenors' exhibits are only relevant to such inadmissible issues, these exhibits should

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<sup>5</sup> See *Duke Energy Corporation* (McGuire Nuclear Station, Units 1 and 2; Catawba Nuclear Station, Units 1 and 2), CLI-02-28, 56 NRC 373, 379 (2002) (citation omitted).

accordingly be excluded. The specific exhibits that LES seeks to have excluded from the Intervenor's exhibit list are discussed in Section III.C, *infra*, and are also identified in Attachments A and B.

1. *The "Performance History" of Third Parties is Not an Admissible Issue*

None of the contentions admitted in this proceeding demands an inquiry into the performance histories or capabilities of third parties -- commercial or governmental. Indeed, NIRS/PC have previously raised such concerns with respect to the DOE and Waste Control Specialists, LLC ("WCS"), and the Board has summarily rejected those arguments.<sup>6</sup> In addition, to the extent the exhibits are intended to suggest that LES must enter into contracts, or demonstrate the licensability and operability of a specific deconversion or disposal facility at this juncture, the Intervenor's disregard the Commission's clear direction that a plausible strategy "does not mean a definite or certain strategy, to include completion of all necessary contractual arrangements."<sup>7</sup> Lastly, as the Board noted in its October 4 Order, testimony related to the legal and policy standards behind what constitutes a plausible strategy is inadmissible, including the performance histories of third parties.<sup>8</sup> Accordingly, any exhibits relied on by the Intervenor's expert related to performance histories should be excluded.

2. *Evaluation of the Depleted UO<sub>2</sub> Disposal Form is Not an Admissible Issue*

Some of the Intervenor's exhibits also raise issues relative to the ultimate disposal form of DU from the NEF. The Board, however, has made clear that the question of whether DUF<sub>6</sub> should be deconverted to the UO<sub>2</sub> form (as opposed to the U<sub>3</sub>O<sub>8</sub> form proposed by LES) is

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<sup>6</sup> See, e.g., *Louisiana Energy Servs., L.P.* (National Enrichment Facility), LBP-04-14, 60 NRC 40, 54-58 (2004); See also Memorandum and Order (Ruling on NIRS/PC Late-Filed Contention Amendments) (June 30, 2005) (unpublished) at 10 ("June 2005 Ruling on Late-Filed Contentions").

<sup>7</sup> *Louisiana Energy Servs., L.P.* (National Enrichment Facility), CLI-04-25, 60 NRC 223, 226 (2004).

<sup>8</sup> October 4 Order, at 3-4.

not an admissible issue in this proceeding.<sup>9</sup> To the extent Intervenors persist in raising this issue, such exhibits should be stricken.

3. *Alleged Currency Exchange Rate Uncertainties, Emerging Uranium Health Risks, and Licensing Delays Are Not Admissible Issues*

NIRS/PC have raised on multiple occasions in the past the issues of currency exchange rate fluctuations, "emerging evidence" of uranium health risks, and licensing delays.<sup>10</sup> This Board has consistently rejected the admission of those issues on both timeliness and admissibility grounds.<sup>11</sup> Notably, with respect to the issue of exchange rate uncertainties, the Board has stated unequivocally that "the NIRS/PC concern about currency conversion [] appears to lack materiality given the parties' indication in their May 23 joint report that they intend to provide dispositioning costs in 2004 dollars."<sup>12</sup> Moreover, the Board has found Intervenors' argument regarding licensing delays similarly to lack materiality, and Intervenors' argument regarding uranium health risks to be an improper challenge to the Commission's radiation protection regulations (*i.e.*, 10 C.F.R. Part 20).<sup>13</sup> Thus, any NIRS/PC exhibits concerning these issues clearly exceed the scope of the admitted contentions at issue and should be stricken.

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<sup>9</sup> See, e.g., Memorandum and Order (Ruling on in Limine Motions Regarding Prefiled Direct and Rebuttal Testimony and Providing Administrative Directives) (Feb. 4, 2005) at 3-4 (unpublished) (rejecting earlier NIRS/PC prefiled testimony that "relate singularly to the proposition that LES must analyze deconversion into the UO<sub>2</sub> form, a proposition that this Board has previously rejected on more than one occasion, most recently in our January 21 order"); see also, October 4 Order, at 4.

<sup>10</sup> See, e.g., "Motion on Behalf of Intervenors Nuclear Information and Resource Service and Public Citizen for Admission of Late-Filed Contentions Concerning Dispositioning Cost Estimates" (May 16, 2005) at 8, 23; "Motion on Behalf of Intervenors Nuclear Information and Resource Service and Public Citizen for Admission of Additional Bases for Late-Filed Contentions Concerning Dispositioning Cost Estimates" (May 20, 2005) at 6-7.

<sup>11</sup> See June 2005 Ruling on Late-Filed Contentions, at 13 n.13.

<sup>12</sup> See *id.*

<sup>13</sup> See *id.* Additionally, to the extent that some of Intervenors' exhibits discuss health effects of lead, those exhibits are even further outside the scope of the proceeding and should be stricken as well.

4. *The Viability of WCS and Envirocare as Disposal Sites for Depleted Uranium is Not an Admissible Issue*

Several of the Intervenor's exhibits are devoted to the purported "unacceptability" of the WCS and Envirocare sites for disposal of DU from the proposed NEF. These exhibits essentially mirror arguments made by NIRS/PC in support of previously proposed -- and *rejected* -- late-filed contentions. With respect to the WCS site in particular, the Board has stated unequivocally that "the sufficiency of the [WCS] application before the Texas Commission on Environmental Quality (TCEQ) [is] a matter that is outside the Board's jurisdiction and, therefore, outside the scope of this proceeding."<sup>14</sup> Relative to the Envirocare site, the Board found that NIRS/PC failed to raise a genuine material dispute, insofar as their proposed contention's supporting bases impermissibly challenged the Commission's regulations for land disposal of low-level radioactive waste (*i.e.*, 10 C.F.R. Part 61) and lacked adequate factual or expert opinion support.<sup>15</sup> Further, the Board recently struck the Intervenor's testimony with respect to viability of the WCS application and the viability of Envirocare as a disposal site.<sup>16</sup> Accordingly, any exhibits relied upon by the Intervenor to question the viability of the WCS application or Envirocare as a disposal site should be stricken.

5. *Exhibits Otherwise Not Relevant for Specific Reasons*

In addition to exhibits which fall into one of the general categories of improper or irrelevant exhibits discussed above, many exhibits also lack relevance for specific reasons. Indeed, many of these exhibits are not even referenced in the Intervenor's testimony. As a result, LES is unable to determine the relevance of them with respect to issues in the proceeding. By

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<sup>14</sup> See *id.* at 12.

<sup>15</sup> See *id.* at 12-13.

<sup>16</sup> See October 4 Order, at 12.

way of Exhibit 104 is a DOE Inspector General Audit Report recommending a second conversion line at Portsmouth, which has no apparent connection to any issue in this proceeding nor is it referenced in the Intervenors' prefiled direct testimony. Without knowing the purpose of introducing such exhibits, we feel compelled to object and, accordingly, ask the board to exclude such exhibits for the reasons provided in Attachments A and B.

6. *Exhibits Not Referenced in Testimony*

As discussed above, the Board has directed each party to file all exhibits "proffered in connection with the parties' prefiled direct testimony."<sup>17</sup> Contrary to those instructions, the Intervenors' exhibit list contains numerous documents which are not referenced in the prefiled direct testimony. By listing a host of documents which they do not reference in any manner in their direct testimony -- in essence, a document dump -- the Intervenors are wasting the Board's and the other parties' time and resources. Since these documents apparently lack sufficient probative value to be referenced in the Intervenors' testimony and since the burden, delay, and expense associated with sifting through these unreferenced exhibits is quite significant, the Board should strike these exhibits under the principles embodied in Rule 403. Moreover, since these exhibits are not referenced in the Intervenors' testimony, LES is unable to determine the relevance of them with respect to issues in the proceeding. Without knowing the purpose of introducing such exhibits, we feel compelled to object and, accordingly, ask the board to exclude such exhibits.

7. *Exhibits Incorrectly Identified as Referenced for All Issues*

The Board, in its September 22 Order, stated that "each part 4 should identify the names(s) of the witness/panel that will first identify/introduce the exhibit in conjunction with its

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<sup>17</sup> September 14 Order, at 3.

testimony, even if the exhibit may be referred to by more than one witness/panel."<sup>18</sup> However, for many exhibits, e.g., Exhibits 85-228, the Intervenors have identified an exhibit as applying to "all issues" yet that exhibit may only be referenced in one or two areas of prefiled testimony. Indeed only three of those exhibits -- 134, 187, and 190 -- are referenced in all sets of the Intervenors' testimony. This failure to adequately identify when exhibits will be introduced also runs counter to the principle in 10 C.F.R. § 2.704(c)(1)(iii) that a party should segregate those exhibits which a party expects to offer and those it may offer if a need arises. The remaining exhibits should be specifically identified as to the particular testimony in which they are referenced and the index corrected accordingly.

8. *Exhibits Related To Testimony Explicitly Struck By October 4 Order*

Certain portions of the Intervenors' prefiled direct were excluded by the Board's October 4 Order. As a result, any exhibits referenced to support the stricken testimony should also be excluded consistent with the Board's request for "an exhibit list that reflects the removal of any associated exhibits."<sup>19</sup> Those documents are specifically identified in Attachments A and B as having been struck by the Board's October 4 Order.

C. Identification of Specific Exhibits to Be Stricken

For the reasons set forth above, LES submits that the following NIRS/PC exhibits should be stricken:

86-99, 101-104, 107, 108, 110-113, 115-131, 56, 135-150, 153-161, 164, 165, 57, 166, 167, 170-184, 186, 188, 189, 192, 194, 196-202, 207-219, 223-225, 227-239, 241, 243-258.

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<sup>18</sup> September 22 Order, at 2.

<sup>19</sup> See October 4 Order, at 17.

In an effort to challenge these exhibits in an orderly fashion, LES has included two attachments that provide the specific reasons for excluding a particular exhibit. Attachment A lists all of the exhibits which should be excluded under one of the specific rationales discussed, *supra*, in Section III.B. Attachment B is based on the Intervenors' exhibit list and identifies whether a particular exhibit has been excluded by the Board as a result of the Board's October 4 Order or whether another reason exists for excluding that specific exhibit. Thus, Attachment A identifies exhibits that should be excluded *by category*, while Attachment B identifies all objections *by exhibit*.

**IV. CONCLUSION**

For the reasons stated above, the Board should exclude the exhibits listed above (as further identified in Attachment A and Attachment B) as not relevant to issues involved in the proceeding as well as those exhibits which, though possibly relevant, lack sufficient probative value to outweigh the burden, expense and delay associated with their inclusion as exhibits.

Respectfully submitted,



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Dated at Washington, District of Columbia  
this 7th day of October 2005

## ATTACHMENT A

### Bases for Objections to NIRS/PC Hearing Exhibits<sup>1</sup>

1. **Outside Scope (DOE Performance)<sup>2</sup>**  
102, 103, 115, 116, 118, 136, 137, 138, 160, 183, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 219, 227
2. **Outside Scope (Depleted UO<sub>2</sub> Disposal Form)<sup>3</sup>**  
101, 135
3. **Outside Scope (Currency Issues)<sup>4</sup>**  
90, 98, 125, 129
4. **Outside Scope (Uranium Toxicity Health Effects)<sup>5</sup>**  
89, 91, 97, 99, 108, 110, 111, 112, 117, 119, 120, 121, 122, 123, 124, 126, 127, 130, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 154, 155, 156, 157, 158, 159, 165, 57, 166, 170, 181, 225
5. **Outside Scope (WCS Licensing Issues)<sup>6</sup>**  
150, 174, 175, 182, 189, 192, 196, 197, 198, 199, 200, 201, 202, 218, 228
6. **Outside Scope (Envirocare Licensing Issues)<sup>7</sup>**  
170, 171, 179, 188

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<sup>1</sup> The bases listed here correspond to the bases listed in Attachment B. In some instances, the intent of the exhibit is unclear. Where multiple or alternate bases exist for excluding an exhibit, LES has identified such exhibits under both bases in Attachment A. While Attachment A identifies exhibits that should be excluded *by category*, Attachment B identifies all objections *by exhibit*.

<sup>2</sup> Exhibits in this category are discussed in Section III.B.1.

<sup>3</sup> Exhibits in this category are discussed in Section III.B.2.

<sup>4</sup> Exhibits in this category are discussed in Section III.B.3.

<sup>5</sup> Exhibits in this category are discussed in Section III.B.3. Category also includes exhibits related to lead toxicity.

<sup>6</sup> Exhibits in this category are discussed in Section III.B.4.

<sup>7</sup> Exhibits in this category are discussed in Section III.B.4.

**7. Outside Scope (Other)<sup>8</sup>**

- 87 40 C.F.R. Part 61 applies to radon emissions from DOE facilities, not DU from NEF.
- 88 Exhibit (duplicates 194) cites Section 274, presumably for the purpose of arguing that the NRC can rescind an Agreement State's authority (*see* p. 41 of NIRS/PC Prefiled Disposal Testimony). Without conceding this point, this proceeding is not the venue for determining whether an Agreement State is meeting its obligations and, if not, whether the NRC can rescind the authority.
- 96 Exhibit on UK Government's intent to underwrite BNFL liabilities for waste management. No apparent connection to any issue in this proceeding; not referenced in testimony.
- 101 Exhibit is a DOE report on treatment options for plutonium, including vitrification, and conversion to ceramic form. No apparent connection to any issue in this proceeding. Not referenced in testimony. Alternatively, excluded as outside scope (uranium toxicity), if point is that DU should be converted to UO<sub>2</sub>, and then to a ceramic form.
- 102 Exhibit is IEER comments on DOE report, which focuses on TRU waste management, the Hanford waste tanks, and radium and thorium at Fernald. No apparent connection to any issue in this proceeding. Alternatively, excluded as outside scope (DOE performance) - *see* p. 22 of Prefiled Disposal Testimony.
- 103 Similar to Exhibit 102. Alternatively, excluded as outside scope (DOE performance).
- 104 DOE IG Audit Report, recommending a second conversion line at Portsmouth; no apparent connection to any issue in this proceeding; not referenced in testimony.
- 107 Exhibit is excerpt from report from DOE-Carlsbad Office presenting baseline cost data for DOE's WIPP facility; no apparent connection to any issue in this proceeding; not referenced in testimony; Alternatively, may be offered for "DOE Performance" argument, in which case it could be outside scope (DOE performance); not clear if this is the purpose.
- 113 Exhibit on the Great Lakes; no apparent connection to any issue in this proceeding; not referenced in testimony.
- 117 Exhibit is INEEL report on disposal options for DU; cited on page 16 of disposal testimony for partition coefficient of uranium; not relevant on this basis. Alternatively, outside scope (uranium toxicity).

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<sup>8</sup> Exhibits in this category are discussed in Section III.B.5.

- 139 General description of enrichment industry; no apparent connection to any issue in this proceeding; not referenced in testimony.
- 153 Exhibit is a DOE-ORNL document on the use of DUO<sub>2</sub> for fabrication of next-generation spent nuclear fuel casks; no apparent connection to any issue in this proceeding; not referenced in testimony.
- 161 Exhibit is a press release from Southwest Research Institute on the budget for WIPP; no apparent connection to any issue in this proceeding; not referenced in testimony.
- 167 Exhibit is Table of Contents of Part 61 DEIS; no apparent relevance of the table of contents.
- 176 DOE report on spent fuel and high-level radioactive waste inventories; excerpt is on volume and radioactivity of these inventories; no apparent connection to any issue in this proceeding.
- 177 DOE report on spent fuel and high-level radioactive waste inventories; excerpt is on volume and radioactivity of these inventories; no apparent connection to any issue in this proceeding.
- 178 DOE report on spent fuel and high-level radioactive waste inventories; excerpt is on volume and radioactivity of these inventories; no apparent connection to any issue in this proceeding.
- 194 Exhibit (duplicates 88) cites Section 274, presumably for the purpose of arguing that the NRC can rescind an Agreement State's authority (see p. 41 of NIRS/PC Prefiled Disposal Testimony). Without conceding this point, this proceeding is not the venue for determining whether an Agreement State is meeting its obligations and, if not, whether the NRC can rescind the authority.

**8. Not Referenced In Testimony<sup>9</sup>**

86, 92, 93, 94, 95, 131, 164, 225, 229-239, 241, 243-258

**9. Exhibits identified as referenced for "all issues" that are not referenced in all four sets of testimony<sup>10</sup>**

Exhibits 85-228 are referenced as applying to "all issues". In fact, only three of those exhibits -- 134, 187, and 190 -- are referenced in all sets of NIRS/PC's prefiled testimony.

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<sup>9</sup> Exhibits in this category are discussed in Section III.B.6.

<sup>10</sup> Exhibits in this category are discussed in Section III.B.7.

The remaining exhibits should be specifically identified as to the specific testimony in which they are referenced, and the index corrected accordingly.

**10. Exhibits Struck by October 4 Order<sup>11</sup>**

88, 102, 103, 115-118, 128, 56, 135-138, 150, 160, 167, 170-184, 186, 188, 189, 194, 196-200, 202, 207-209, 211-217, 219, 223, 225, 227, 228

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<sup>11</sup> Exhibits in this category are discussed in Section III.B.8.

## ATTACHMENT B

### Bases for Objections to NIRS/PC Hearing Exhibits<sup>1</sup>

Exhibit #	Witness/ Panel	Description	Basis for Objection (if any)
85	Arjun Makhijani/ all issues	U.S. Nuclear Regulatory Commission. "10 CFR parts 2, 19, 20, 21, 30, 40, 51, 61, 70, 73 and 170: licensing requirements for land disposal of radioactive waste. Final Rule." <i>Federal register</i> , v.47, no. 248 (Dec. 27, 1982). pp. 57446-57477.	
86	Arjun Makhijani/ all issues	U.S. Nuclear Regulatory Commission. "10 CFR parts 2, 19, 20, 21, 30, 40, 51, 61, 70, 73 and 170: Licensing requirements for land disposal of radioactive waste. Proposed rule." <i>Federal register</i> , v.46, no.142 (July 24, 1981). pp. 38081-38105.	Not Referenced In Testimony, but Potentially Relevant
87	Arjun Makhijani/ all issues	United States. Environmental Protection Agency. <i>Code of Federal Regulations. Title 40: Protection of Environment. Part 61—National emission standards for hazardous air pollutants. Subpart Q—National Emission Standards for Radon Emissions From Department of Energy Facilities. § 61.192. Standard.</i> As of July 1, 2004. On the Web at <a href="http://www.access.gpo.gov/nara/cfr/waisidx_04/40cfrv8_04.html">http://www.access.gpo.gov/nara/cfr/waisidx_04/40cfrv8_04.html</a> .	Outside Scope (Other) - 40 CFR Part 61 only applies to radon emissions from <u>DOE</u> facilities, not DU from NEF; only applies to 11e.(2) material, not source material.
88	Arjun Makhijani/ all issues	Atomic Energy Act of 1954, as Amended. On the Web at <a href="http://www.nrc.gov/who-we-are/governing-laws.html">http://www.nrc.gov/who-we-are/governing-laws.html</a> and <a href="http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr0980/m1022200075-vol1.pdf#pagemode=bookmarks&amp;page=14">http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr0980/m1022200075-vol1.pdf#pagemode=bookmarks&amp;page=14</a> .	<b>STRUCK BY OCTOBER 4 ORDER</b> Outside Scope (Other) — cites Section 274, presumably for proposition that NRC can rescind Agreement State authority (see p. 41 of NIRS/PC Prefiled Disposal Testimony). Without conceding this point, this proceeding is not the venue for determining whether an Agreement State is meeting its obligations, and, if not, whether the NRC can rescind the authority; duplicates Exhibit 194.

<sup>1</sup> The bases listed here correspond to the bases listed in Attachment A. In some instances, the intent of the exhibit is unclear. Where multiple or alternate bases exist for excluding an exhibit, LES has identified such exhibits under both bases in Attachment B. While Attachment A identifies exhibits that should be excluded *by category*, Attachment B identifies all objections *by exhibit*.

Exhibit #	Witness/ Panel	Description	Basis for Objection (if any)
89	Arjun Makhijani/ all issues	M. Luisa Albina, Montserrat Belles, Mercedes Gomez, Domenec J. Sanchez, and Jose L. Domingo. "Influence of maternal stress on uranium-induced developmental toxicity in rats." <i>Experimental biology and medicine</i> , v. 228, no. 9 (October 2003). pp. 1072-1077.	Outside Scope (Uranium Toxicity)
90	Arjun Makhijani/ all issues	Edmund L. Andrews. "The Dollar is down, but should anyone care?" <i>New York times</i> , November 16, 2004.	Outside Scope (Currency Issues)
91	Arjun Makhijani/ all issues	Darryl P. Arfsten, Kenneth R. Still and Glenn D. Ritchie. "A review of the effects of uranium and depleted uranium exposure on reproduction and fetal development." <i>Toxicology and industrial health</i> , v.17, nos. 5-10 (June 2001). pp. 180-191.	Outside Scope (Uranium Toxicity)
92	Arjun Makhijani/ all issues	Autorité de sûreté nucléaire. <i>Nuclear safety in France in 2000</i> . Annual report. Paris: Directorate General for Nuclear Safety and Radiation Protection, January 26, 2001. On the Web at <a href="http://www.asn.gouv.fr/Publications/ra/raang2000.asp">http://www.asn.gouv.fr/Publications/ra/raang2000.asp</a> .	Not Referenced In Testimony, but Potentially Relevant
93	Arjun Makhijani/ all issues	Autorité de sûreté nucléaire. <i>Nuclear safety in France in 2001</i> . Annual report. Paris: Directorate General for Nuclear Safety and Radiation Protection, February 21, 2002. On the Web at <a href="http://www.asn.gouv.fr/Publications/ra/raang2001.asp">http://www.asn.gouv.fr/Publications/ra/raang2001.asp</a> .	Not Referenced In Testimony, but Potentially Relevant
94	Arjun Makhijani/ all issues	Autorité de sûreté nucléaire. <i>Nuclear safety in France in 2002</i> . Annual report. Paris: Directorate General for Nuclear Safety and Radiation Protection, 21 February 2003. On the Web at <a href="http://www.asn.gouv.fr/Publications/ra/raang2002.asp">http://www.asn.gouv.fr/Publications/ra/raang2002.asp</a> .	Not Referenced In Testimony, but Potentially Relevant

Exhibit #	Witness/ Panel	Description	Basis for Objection (if any)
95	Arjun Makhijani/ all issues	Autorité de sûreté nucléaire. <i>Nuclear safety in France in 2003</i> . Annual report. Paris: Directorate General for Nuclear Safety and Radiation Protection, February 21 <sup>st</sup> of 2004. On the Web at <a href="http://www.asn.gouv.fr/Publications/ra/raang2003.asp">http://www.asn.gouv.fr/Publications/ra/raang2003.asp</a> .	Not Referenced In Testimony, but Potentially Relevant
96	Arjun Makhijani/ all issues	Zackary Moss. <i>British government set to underwrite nuclear liabilities</i> . Nuclear power and radioactivity, News story. Oslo: Bellona Foundation, 2003-01-20. On the Web at <a href="http://www.bellona.no/en/energy/nuclear/28002.html">http://www.bellona.no/en/energy/nuclear/28002.html</a> .	Outside Scope (Other) - no apparent connection to any issue in this proceeding; not referenced in testimony.
97	Arjun Makhijani/ all issues	Richard L. Canfield, Charles R. Henderson, Jr., Deborah A. Cory-Slechta, Christopher Cox, Todd A. Jusko, and Bruce P. Lanphear. "intellectual impairment in children with blood lead concentrations below 10 µg per deciliter." <i>New England journal of medicine</i> , v. 348, no. 16, (April 17, 2003). pp. 1517-1526.	Outside Scope (Lead Toxicity) - no relationship to issues in this proceeding; same defect as uranium toxicity.exhibits.
98	Arjun Makhijani/ all issues	Harry Cleaver and Joshua Freeze. <i>Chronology of International Monetary Affairs</i> . On the Web at <a href="http://www.eco.utexas.edu/Homepages/Faculty/Cleaver/357Lmoneychrono.html">http://www.eco.utexas.edu/Homepages/Faculty/Cleaver/357Lmoneychrono.html</a> .	Outside Scope (Currency Issues)
99	Arjun Makhijani/ all issues	Elena S. Craft, Aquel W. Abu-Qare, Meghan M. Flaherty, Melissa C. Garofolo, Heather L. Rincavage, Mohamed B. Abou-Donia. "Depleted and natural uranium: chemistry and toxicological effects." <i>Journal of toxicology and environmental health, Part B</i> , v. 7 (2004) . pp. :297-317	Outside Scope (Uranium Toxicity)

Exhibit #	Witness/ Panel	Description	Basis for Objection (if any)
100	Arjun Makhijani/ all issues	<i>Deposition of Chris Chater, Bernard Duperret, Rodney H. Fisk, Rod Krich, Robert Pratt, Paul G. Schneider, Michael H. Schwartz, Julian J Steyn.</i> Monday, October 4, 2004. In the matter of Louisiana Energy Services (National Enrichment Facility) v. Nuclear Information and Resource Service and Public Citizen. U.S. Nuclear Regulatory Commission, Docket No. 70-3103-ML; ASLBP No. 03-816-01-ML. Transcript by Neal R. Gross. At head of title: Before the Commission. Deposition took place in offices of Winston & Strawn, Washington, DC.	
101	Arjun Makhijani/ all issues	United States. Department of Energy. Office of Fissile Materials Disposition. <i>Technical Summary Report for Surplus Weapons-Usable Plutonium Disposition.</i> DOE/MD-0003 Rev. 1. Washington, DC: DOE, October 31, 1996.	Outside Scope (Depleted UO <sub>2</sub> Disposal Form) - if referenced to show DU should be converted to UO <sub>2</sub> and then to ceramic form, or Outside Scope (Other) - no apparent connection to any issue in this proceeding; not referenced in testimony.
402	Arjun Makhijani/ all issues	U.S. Department of Energy. Office of Environmental Management. <del><i>Department of Energy Response to 1997 IEEP Environmental Management report.</i></del> [Washington, DC]: EM, March 18, 1998.	<b>STRUCK BY OCTOBER 4 ORDER</b> Outside Scope (DOE Performance) - if cited for TRU waste management, Hanford waste tanks, and Fernald (see p. 22 of disposal testimony), or Outside Scope (Other) - no apparent connection to any issue in this proceeding.
403	Arjun Makhijani/ all issues	U.S. Department of Energy. Office of Environmental Management. <del><i>Buried Transuranic Contaminated Waste Information for U.S. Department of Energy Facilities</i></del> Washington, DC: DOE EM, June 2000.	<b>STRUCK BY OCTOBER 4 ORDER</b> Outside Scope (DOE Performance) - if cited for TRU waste management, Hanford waste tanks, and Fernald (see p. 22 of disposal testimony), or Outside Scope (Other) - no apparent connection to any issue in this proceeding.
104	Arjun Makhijani/ all issues	U.S. Department of Energy. Office of Inspector General. Office of Audit Services. <i>Audit report: Depleted uranium hexafluoride conversion.</i> DOE/IG-0642. Washington, DC, March 2004. On the Web at <a href="http://www.ig.doe.gov/pdf/ig-0642.pdf">www.ig.doe.gov/pdf/ig-0642.pdf</a> .	Outside Scope (Other) - recommends second conversion line at Portsmouth; no apparent connection to any issue in this proceeding; not referenced in testimony.

Exhibit #	Witness/ Panel	Description	Basis for Objection (if any)
105	Arjun Makhijani/ all issues	U.S. Department of Energy. "Record of decision for construction and operation of a depleted uranium hexafluoride conversion facility at the Paducah, KY, site." <i>Federal Register</i> , v. 69, no. 143 (July 27, 2004). pp. 44654-44658. On the Web at <a href="http://web.ead.anl.gov/uranium/pdf/PadRODRegister.pdf">http://web.ead.anl.gov/uranium/pdf/PadRODRegister.pdf</a> .	
106	Arjun Makhijani/ all issues	U.S. Department of Energy. "Record of decision for construction and operation of a depleted uranium hexafluoride conversion facility at the Portsmouth, OH, Site." <i>Federal Register</i> , v. 69, no. 143 (July 27, 2004). pp. 44649-44654. On the Web at <a href="http://web.ead.anl.gov/uranium/pdf/PortRODRegister.pdf">http://web.ead.anl.gov/uranium/pdf/PortRODRegister.pdf</a> .	
107	Arjun Makhijani/ all issues	U.S. Department of Energy. Carlsbad Field Office. <i>National TRU Waste Management Plan: Corporate Board annual report</i> . Rev. 3. DOE/NTP-96-1204. July 2002. On the Web at <a href="http://www.wipp.ws/library/ntwmp/ntwmp.htm">http://www.wipp.ws/library/ntwmp/ntwmp.htm</a> .	Outside Scope (Other) - no apparent connection to any issue in this proceeding; not referenced in testimony, or Outside Scope (DOE Performance) - not clear if this is purpose of exhibit.
108	Arjun Makhijani/ all issues	Jose L. Domingo. "Reproductive and developmental toxicity of natural and depleted uranium: a review." <i>Reproductive toxicology</i> , v. 15 (2001). pp. 603-609.	Outside Scope (Uranium Toxicity)
109	Arjun Makhijani/ all issues	United States. Environmental Protection Agency. <i>Waste Characterization Program Documents Applicable to Transuranic Radioactive Waste From the Hanford Site for Disposal at the Waste Isolation Pilot Plant</i> . On the Web at <a href="http://www.epa.gov/fedrgstr/EPA-WASTE/2001/November/Day-27/f29454.htm">http://www.epa.gov/fedrgstr/EPA-WASTE/2001/November/Day-27/f29454.htm</a> . From "[Federal Register: November 27, 2001 (Volume 66, Number 228)] [Proposed Rules] [Page 59208-59209]."	
110	Arjun Makhijani/ all issues	United States. Environmental Protection Agency. <i>Radiation Information: Uranium</i> . On the Web at <a href="http://www.epa.gov/radiation/radionuclides/uranium.htm">http://www.epa.gov/radiation/radionuclides/uranium.htm</a> . Last updated September 21, 2004.	Outside Scope (Uranium Toxicity)

Exhibit #	Witness/ Panel	Description	Basis for Objection (if any)
111	Arjun Makhijani/ all issues	Keith F. Eckerman, Richard W. Leggett, Christopher B. Nelson, Jerome S. Puskin, Allan C.B. Richardson. <i>Cancer Risk Coefficients for Environmental Exposure to Radionuclides: Radionuclide-Specific Lifetime Radiogenic Cancer Risk Coefficients for the U.S. Population, Based on Age-Dependent Intake, Dosimetry, and Risk Models.</i> Federal Guidance Report No. 13. EPA 402-R-99-001. Oak Ridge, TN: Oak Ridge National Laboratory; Washington, DC: Office of Radiation and Indoor Air, United States Environmental Protection Agency, September 1999.	Outside Scope (Uranium Toxicity)
112	Arjun Makhijani/ all issues	EPA (2002). U.S. Environmental Protection Agency, <i>Federal Guidance Report 13 Cancer Risk Coefficients for Environmental Exposure to Radionuclides: CD Supplement</i> , EPA 402-C-99-001, Rev. 1 (Oak Ridge National Laboratory, Oak Ridge, TN; U.S. Environmental Protection Agency, Washington, DC).	Outside Scope (Uranium Toxicity)
113	Arjun Makhijani/ all issues	U.S. Environmental Protection Agency, "The Great Lakes: An Environmental Atlas and Resource Book", On the Web at <a href="http://www.epa.gov/glnpo/atlas/glat-ch1.html">http://www.epa.gov/glnpo/atlas/glat-ch1.html</a>	Outside Scope (Other) - no apparent connection to any issue in this proceeding; not referenced in testimony.
114	Arjun Makhijani/ all issues	Energy Resources International, Inc. <i>Estimated LES-II applicable costs for distribution of DUF6 based on LLNL 1997 cost analysis for DOE DUF6 disposition</i> . Draft ERI-2129-0202. Washington, DC, January 2003. Running title has date: December 2002.	
445	Arjun Makhijani/ all issues	Marc Fioravanti and Arjun Makhijani. <i>Containing the Cold War Mess: Restructuring the Environmental Management of the U.S. Nuclear Weapons Complex</i> . Takoma Park, Maryland: Institute for Energy and Environmental Research, October 1997. On the Web at <a href="http://www.ieer.org/reports/cleanup">http://www.ieer.org/reports/cleanup</a> .	STRUCK BY OCTOBER 4 ORDER Outside Scope (DOE Performance)

Exhibit #	Witness/ Panel	Description	Basis for Objection (if any)
416	Arjun Makhijani/ all issues	Marc Fioravanti and Arjun Makhijani. <i>Supplement to Containing the Cold War Mess IEEER's Response to the Department of Energy's Review.</i> Takoma Park, Maryland: Institute for Energy and Environmental Research, March, 1998. On the Web at <a href="http://www.ieer.org/reports/cleanup/cin_supp.html">http://www.ieer.org/reports/cleanup/cin_supp.html</a> .	STRUCK BY OCTOBER 4 ORDER Outside Scope (DOE Performance)
417	Arjun Makhijani/ all issues	T.J. Hertzler, D.D. Nishimoto, and M.D. Otis. <i>Depleted uranium disposal options evaluation.</i> EGG-MS-11297. Idaho Falls, ID: Waste Management Technology Division, Science Applications International Corporation for EG&G Idaho, Inc. and the U.S. Department of Energy, Office of Environmental Restoration and Waste Management, May 1994. On the Web at <a href="http://www.osti.gov/energy/citations/product.biblio.jsp?osti_id=10191353&amp;queryId=1&amp;start=0">http://www.osti.gov/energy/citations/product.biblio.jsp?osti_id=10191353&amp;queryId=1&amp;start=0</a> .	STRUCK BY OCTOBER 4 ORDER Outside Scope (Uranium Toxicity), or Outside Scope (Other) — see p. 16 of disposal testimony; cited for partition coefficient of uranium; no relevant on this basis.
418	Arjun Makhijani/ all issues	Letter to IEEER from Carolyn L. Huntoon, Assistant Secretary for Environmental Management, United States Department of Energy, on Buried TRU Waste Letter Addressed to Arjun Makhijani July 18, 2000.	STRUCK BY OCTOBER 4 ORDER Outside Scope (DOE Performance)
119	Arjun Makhijani/ all issues	International Commission on Radiological Protection. <i>Recommendations of the International Commission on Radiological Protection.</i> ICRP publication 26. Oxford; New York: Pergamon, 1977.	Outside Scope (Uranium Toxicity)
120	Arjun Makhijani/ all issues	International Commission on Radiological Protection. <i>1990 Recommendations of the International Commission on Radiological Protection.</i> Annals of the ICRP, v. 21, no. 1-3. ICRP publication 60. Oxford; New York: Pergamon, 1991.	Outside Scope (Uranium Toxicity)
121	Arjun Makhijani/ all issues	International Commission on Radiological Protection. <i>Radiological protection policy for the disposal of radioactive waste.</i> Annals of the ICRP, v. 27 supplement. ICRP publication 77. Kidlington, Oxford; Tarrytown, NY: ICRP, 1997.	Outside Scope (Uranium Toxicity)

Exhibit #	Witness/ Panel	Description	Basis for Objection (if any)
122	Arjun Makhijani/ all issues	International Commission on Radiological Protection. <i>Radiation protection recommendations as applied to the disposal of long-lived solid radioactive waste.</i> Annals of the ICRP, v. 28, no. 4. ICRP publication 81. Kidlington, Oxford; Tarrytown, NY: Pergamon, 1998.	Outside Scope (Uranium Toxicity)
123	Arjun Makhijani/ all issues	International Commission on Radiological Protection. <i>Biological effects after prenatal irradiation (embryo an fetus).</i> Annals of the ICRP, v. 33, no. 1-2. ICRP publication 90. Kidlington, Oxford; Tarrytown, NY: Pergamon, 2003.	Outside Scope (Uranium Toxicity)
124	Arjun Makhijani/ all issues	International Commission on Radiological Protection. <i>2005 Recommendations of the International Commission on Radiological Protection.</i> Draft for Consultation.	Outside Scope (Uranium Toxicity)
125	Arjun Makhijani/ all issues	International Monetary Fund. <i>World economic outlook: advancing structural reforms: a survey by the staff of the International Monetary Fund.</i> World economic and financial surveys. Washington, DC: IMF, April 2004. On the Web at <a href="http://www.imf.org/external/pubs/ft/weo/2004/01/">http://www.imf.org/external/pubs/ft/weo/2004/01/</a> .	Outside Scope (Currency Issues)
126	Arjun Makhijani/ all issues	Institute of Medicine. Committee on Health Effects Associated with Exposures During the Gulf War. Division of Health Promotion and Disease Prevention. Carolyn E. Fulco, Catharyn T. Liverman, Harold C. Sox, Editors. <i>Gulf War and Health: Volume 1. Depleted Uranium, Sarin, Pyridostigmine Bromide, and Vaccines.</i> Washington, DC: National Academy Press, 2000. Links on the Web at <a href="http://www.iom.edu/report.asp?id=5534">http://www.iom.edu/report.asp?id=5534</a> .	Outside Scope (Uranium Toxicity)
127	Arjun Makhijani/ all issues	Karin Koller, Terry Brown, Anne Spurgeon, Len Levy. "Recent developments in low-level lead exposure and intellectual impairment in children." <i>Environmental health perspectives.</i> v. 112, no. 9 (June 2004). pp. 987-994.	Outside Scope (Lead Toxicity) - same defect as uranium toxicity.exhibits.

Exhibit #	Witness/ Panel	Description	Basis for Objection (if any)
428	Arjun Makhijani/ all issues	Matthew W. Kozak, Thomas A. Feeney, Christi D. Leigh, Harlan W. Stockman. <i>Performance assessment of the proposed disposal of depleted uranium as Class A Low-level Waste</i> . FIN A1764 Final Letter Report submitted December 16, 1992 to F.W. Ross (Low-Level Waste Management Branch, Office of Nuclear Material Safety and Safeguards, Nuclear Regulatory Commission). Albuquerque, NM: Sandia National Laboratories, 1992.	STRUCK BY OCTOBER 4 ORDER
129	Arjun Makhijani/ all issues	Mark Landler. "Greenspan warns that U.S. deficits pose risk to dollar." <i>New York times</i> , November 19, 2004.	Outside Scope (Currency Issues)
130	Arjun Makhijani/ all issues	V. Lemerrier, X. Millot, E. Ansoberlo, F. Ménétrier, A. Flury-Hérard, Ch. Rousselle, and J.M. Schermann. "Study of uranium transfer across the blood-brain barrier." <i>Radiation protection dosimetry</i> , v. 105, nos. 1-4 (2003). pp. 243-245.	Outside Scope (Uranium Toxicity)
131	Arjun Makhijani/ all issues	T.R. Lemons, C.R. Barlow, J.M. Begovich, F.C. Huffman, P.M. Kannan, J.D. McGaugh, J.H. Pashley, J.J. Staley, W.J. Spetnagel, L.D. Trowbridge, N.M. Baldwin, R.L. Pearson, R.W. Schmidt, F.W. Stout, M.S. Taylor, J.P. Voumazos, W.A. Pryor, and K.T. Ziehlke. 1990. <i>The ultimate disposition of depleted uranium</i> . K/ETO-44. Oak Ridge, TN: Uranium Enrichment Organization, managed by Martin Marietta Energy Systems for the U.S. Department of Energy, December 1990.	Not Referenced In Testimony, but Potentially Relevant
132	Arjun Makhijani/ all issues	Peter G. LeRoy. Letter to John W.N. Hickey (NRC). June 30, 1993. "Docket No.: 70-3070. Louisiana Energy Services Claiborne Enrichment Center, Disposition of depleted uranium hexafluoride, File: 6046-00-2001.01." With Tables 1 and 2.	
133	Arjun Makhijani/ all issues	Louisiana Energy Services. <i>National Enrichment Facility: environmental report</i> . Revision 2. July 2004. Chapter 4. Links to the latest revision on the Web at <a href="http://www.nrc.gov/materials/fuel-cycle-fac/revision-two-license-application.html">http://www.nrc.gov/materials/fuel-cycle-fac/revision-two-license-application.html</a> . Viewed November 15, 2004.	Previously filed by LES.

Exhibit #	Witness/ Panel	Description	Basis for Objection (if any)
134	Arjun Makhijani/ all issues	Louisiana Energy Services. <i>Uranium hexafluoride deconversion and disposal in the United States</i> . National Enrichment Facility Information Sheet, Version 2. 1-19-04. On the Web at <a href="http://www.nefnm.com/documents/infosheets/uranium.pdf">http://www.nefnm.com/documents/infosheets/uranium.pdf</a> .	
55	Arjun Makhijani/ all issues	J.W. Dubrin, J.N. Zoller, L. Rahm-Crites, et al. <i>Depleted Uranium Hexafluoride Program: Engineering analysis report for the long-term management of depleted uranium hexafluoride</i> . UCRL-AR-124080, Rev 2. Livermore, CA: Lawrence Livermore National Laboratory, May 1997. (Volumes I & II). On the Web at <a href="http://www.llnl.gov/tid/lof/documents/toc/231539.html">http://www.llnl.gov/tid/lof/documents/toc/231539.html</a>	
56	Arjun Makhijani/ all issues	<del>Hatem Elayat, Julie Zoller, Lisa Szytel. <i>Cost analysis report for the long-term management of depleted uranium hexafluoride</i>. UCRL-AR-127650. Livermore, CA: Lawrence Livermore National Laboratory, May 1997. Summary (26 p) on the Web at <a href="http://www.osti.gov/energy/citations/product.biblio.jsp?osti_id=575544&amp;queryId=3&amp;start=0">http://www.osti.gov/energy/citations/product.biblio.jsp?osti_id=575544&amp;queryId=3&amp;start=0</a></del>	STRUCK BY OCTOBER 4 ORDER
435	Arjun Makhijani/ all issues	<del>Gloria Wilt. "Dealing with a Dangerous Surplus from the Cold War." Lawrence Livermore National Laboratory UCRL-52000-97-4. <i>Science &amp; technology review</i> (April 1997) pp. 4-13. On the Web at <a href="http://www.llnl.gov/str/pdfs/04-97.pdf">http://www.llnl.gov/str/pdfs/04-97.pdf</a>.</del>	STRUCK BY OCTOBER 4 ORDER Outside Scope (Depleted UO <sub>2</sub> Disposal Form) cited in contingency factor
436	Arjun Makhijani/ all issues	Arjun Makhijani and Michele Boyd. <i>Nuclear Dumps by the Riverside: Threats to the Savannah River from Radioactive Contamination at the Savannah River Site (SRS)</i> . Takoma Park, Maryland: Institute for Energy and Environmental Research, March 11, 2004. On the Web at <a href="http://www.ieer.org/reports/srs/index.html">http://www.ieer.org/reports/srs/index.html</a> .	STRUCK BY OCTOBER 4 ORDER Outside Scope (DOE Performance)

Exhibit #	Witness/ Panel	Description	Basis for Objection (if any)
437	Arjun Makhijani/ all issues	Arjun Makhijani and Michele Boyd. <u>Poison in the Vadose Zone: An examination of the threats to the Snake River Plain aquifer from the Idaho National Engineering and Environmental Laboratory</u> . Takoma Park, Maryland: Institute for Energy and Environmental Research, October 2001	STRUCK BY OCTOBER 4 ORDER Outside Scope (DOE Performance)
438	Arjun Makhijani/ all issues	Arjun Makhijani. Letter from IEER to Carolyn Huntoon, Assistant Secretary for Environmental Management, United States Department of Energy October 13, 2000 On the Web <a href="http://www.ieer.org/comments/waste/tru2hunt.html">http://www.ieer.org/comments/waste/tru2hunt.html</a> .	STRUCK BY OCTOBER 4 ORDER Outside Scope (DOE Performance)
139	Arjun Makhijani/ all issues	Arjun Makhijani, Lois Chalmers, and Brice Smith. <i>Uranium Enrichment: Just Plain Facts to Fuel an Informed Debate on Nuclear Proliferation and Nuclear Power</i> . Takoma Park, MD: Institute for Energy and Environmental Research, October 15, 2004. On the Web at <a href="http://www.ieer.org/reports/uranium/enrichment.pdf">http://www.ieer.org/reports/uranium/enrichment.pdf</a> .	Outside Scope (Other) - general description of enrichment industry; no apparent connection to any issue in this proceeding; not referenced in testimony.
140	Arjun Makhijani/ all issues	Annie Makhijani, Linda Gunter, and Arjun Makhijani. <i>Cogéma: Above the Law?: Concerns about the French Parent Company of a U.S. Corporation Set to Process Plutonium in South Carolina</i> . A report prepared by Institute for Energy and Environmental Research and Safe Energy Communication Council. Takoma Park, MD, May 7, 2002. On the Web at <a href="http://www.ieer.org/reports/cogema/report.html">http://www.ieer.org/reports/cogema/report.html</a> .	Outside Scope (Uranium Toxicity)
141	Arjun Makhijani/ all issues	McClain, D.E., K.A. Benson, T.K. Dalton, J. Ejnik, C.A. Emond, S.J. Hodge, JF. Kalinich, M.A. Landauer, A.C. Miller, T.C. Pellmar, M.D. Stewart, V. Villa, J. Xu. "Biological effects of embedded depleted uranium (DU): summary of Armed Forces Radiobiology Research Institute research." <i>The science of the total environment</i> , v. 274 (2001) pp. 115-118.	Outside Scope (Uranium Toxicity)

Exhibit #	Witness/ Panel	Description	Basis for Objection (if any)
142	Arjun Makhijani/ all issues	Miller AC, Fuciarelli AF, Jackson WE, Ejnik EJ, Emond C, Strocko S, Hogan J, Page N, Pellmar T. Urinary and serum mutagenicity studies with rats implanted with depleted uranium or tantalum pellets. <i>Mutagenesis</i> ; v.13 no. 6 (1998 Nov). pp. 643-648.	Outside Scope (Uranium Toxicity)
143	Arjun Makhijani/ all issues	Miller AC, Blakely WF, Livengood D, Whittaker T, Xu J, Ejnik JW, Hamilton MM, Parlette E, John TS, Gerstenberg HM, Hsu H. Transformation of human osteoblast cells to the tumorigenic phenotype by depleted uranium-uranyl chloride. <i>Environmental Health Perspectives</i> ; v.106, no. 8 (1998 Aug). pp. 465-471.	Outside Scope (Uranium Toxicity)
144	Arjun Makhijani/ all issues	Alexandra C. Miller, Jiaquan Xu, Michael Stewart, Christine Emond, Shelly Hodge, Consuelo Matthews, John Kalanich, David McClain. "Potential health effects of the heavy metals, depleted uranium and tungsten, used in armor-piercing munitions: comparison of neoplastic transformation, mutagenicity, genomic instability, and oncogenesis." <i>Metal ions in biology and medicine</i> , v. 6 (2000). pp. 209-211.	Outside Scope (Uranium Toxicity)
145	Arjun Makhijani/ all issues	Alexandra C. Miller, Jiaquan Xu, Michael Stewart, Pataje G.S. Prasanna, Natalie Page. "Potential late health effects of depleted uranium and tungsten used in armor-piercing munitions: Comparison of neoplastic transformation and genotoxicity with the known carcinogen nickel." <i>Military medicine</i> , v. 167, Supplement 1 (Feb. 2002). pp. 120-122.	Outside Scope (Uranium Toxicity)
146	Arjun Makhijani/ all issues	A.C. Miller, J. Xu, M. Stewart, K. Brooks, S. Hodge, L. Shi, N. Page, D. McClain. "Observation of radiation-specific damage in human cells exposed to depleted uranium: dicentric frequency and neoplastic transformation as endpoints." <i>Radiation protection dosimetry</i> , v. 99, nos.1-4 (2002). pp. 275-278.	Outside Scope (Uranium Toxicity)

Exhibit #	Witness/ Panel	Description	Basis for Objection (if any)
147	Arjun Makhijani/ all issues	Alexandra C. Miller, Michael Stewart, Kia Brooks, Lin Shi, Natalie Page. "Depleted uranium-catalyzed oxidative DNA damage: absence of significant alpha particle decay." <i>Journal of inorganic biochemistry</i> , v. 91 (2002). pp. 246-252.	Outside Scope (Uranium Toxicity)
148	Arjun Makhijani/ all issues	Alexandra C. Miller, Kia Brooks, Michael Stewart, Blake Anderson, Lin Shi, David McClain, Natalie Page. "Genomic instability in human osteoblast cells after exposure to depleted uranium: delayed lethality and micronuclei formation." <i>Journal Of Environmental Radioactivity</i> , v. 64, nos. 2-3 (2003). pp. 247-259. "Sp. Iss. SI."	Outside Scope (Uranium Toxicity)
149	Arjun Makhijani/ all issues	Alexandra C. Miller, Kia Brooks, Jan Smith, Natalie Page. "Effect of the militarily-relevant heavy metals, depleted uranium and heavy metal tungsten-alloy on gene expression in human liver carcinoma cells (HepG2). <i>Molecular and cellular biochemistry</i> , v. 255 (2004). pp. 247-256.	Outside Scope (Uranium Toxicity)
150	Arjun Makhijani/ all issues	<del>National Research Council. Commission on Engineering and Technical Systems. Committee on Decontamination and Decommissioning of Uranium Enrichment Facilities. <i>Affordable Cleanup? Opportunities for Cost Reduction in the Decontamination and Decommissioning of the Nation's Uranium Enrichment Facilities</i>. Washington, DC: National Academies Press, 1996. On the Web at <a href="http://www.nap.edu/books/0309054389/html">http://www.nap.edu/books/0309054389/html</a>.</del>	<b>STRUCK BY OCTOBER 4 ORDER</b> Outside Scope (WCS License)
151	Arjun Makhijani/ all issues	National Research Council. Board on Radioactive Waste Management. Committee on Improving the Scientific Basis for Managing Nuclear Materials and Spent Nuclear Fuel through the Environmental Management Science Program. <i>Improving the Scientific Basis for Managing DOE's Excess Nuclear Materials and Spent Nuclear Fuel</i> . Washington, DC: National Academies Press, 2003. On the Web at <a href="http://books.nap.edu/books/0309087228/html/index.html">http://books.nap.edu/books/0309087228/html/index.html</a> .	

Exhibit #	Witness/ Panel	Description	Basis for Objection (if any)
58	Arjun Makhijani/ all issues	U.S. Nuclear Regulatory Commission. Office of Nuclear Material Safety and Safeguards. <i>Final Environmental Impact Statement for the Construction and Operation of Claiborne Enrichment Center, Homer, Louisiana.</i> NUREG-1484. Washington, DC, September 2004.	
152	Arjun Makhijani/ all issues	U.S. Nuclear Regulatory Commission. Office of Nuclear Material Safety and Safeguards. Division of Waste Management and Environmental Protection. <i>Environmental Impact Statement for the Proposed National Enrichment Facility in Lea County, New Mexico: Draft Report for Comment.</i> NUREG-1790. Washington, DC, September 2004. On the Web at <a href="http://www.nrc.gov/reading-rm/doc-collections/nureqs/staff/sr1790/">http://www.nrc.gov/reading-rm/doc-collections/nureqs/staff/sr1790/</a> .	
153	Arjun Makhijani/ all issues	Juan J. Ferrada, Leslie R. Dole, Meecca Hamilton. <i>Preconceptual design and cost study for a commercial plant to produce DUAGG for use in shielded casks.</i> ORNL/TM-2002/274. At head of title: Nuclear Science and Technology Division. Oak Ridge, TN: Oak Ridge National Laboratory, December 2002. On the Web at <a href="http://web.ead.anl.gov/uranium/pdf/DUAGG115709.pdf">http://web.ead.anl.gov/uranium/pdf/DUAGG115709.pdf</a> .	Outside Scope (Other) - exhibit on use of DUO <sub>2</sub> for fabrication of next generation spent nuclear fuel casks; no apparent connection to any issue in this proceeding; not referenced in testimony.
154	Arjun Makhijani/ all issues	Murat Ozmen and Muhittin Yurekli. "Subacute toxicity of uranyl acetate in Swiss-Albino mice." <i>Environmental Toxicology and Pharmacology</i> , v. 6, no. 2 (1998). pp. 111-115.	Outside Scope (Uranium Toxicity)
155	Arjun Makhijani/ all issues	Pellmar TC, Keyser DO, Emery C, Hogan JB. Electrophysiological changes in hippocampal slices isolated from rats embedded with depleted uranium fragments. <i>Neurotoxicology</i> , v. 20, no. 5 (October 1999). pp. 785-792.	Outside Scope (Uranium Toxicity)
156	Arjun Makhijani/ all issues	T.C. Pellmar, A.F. Fuciarelli, J.W. Ejniak, M. Hamilton, J. Hogan, S. Strocko, C. Emond, H.M. Mottaz and M.R. Landauer. "Distribution of uranium in rats implanted with depleted uranium pellets." <i>Toxicological sciences</i> , v. 49 (1999). pp. 29-39.	Outside Scope (Uranium Toxicity)

Exhibit #	Witness/ Panel	Description	Basis for Objection (if any)
157	Arjun Makhijani/ all issues	Walter J. Rogan and James H. Ware. "Exposure to lead in children – how low is low enough." <i>New England journal of medicine</i> , v. 348, no. 16 (April 17, 2003). pp. 1515-1516.	Outside Scope (Uranium Toxicity)
158	Arjun Makhijani/ all issues	Royal Society. <i>Health hazards of depleted uranium munitions. Part II</i> . London: Royal Society, March 2002. On the Web at <a href="http://www.royalsoc.ac.uk/displaypagedoc.asp?id=9825">http://www.royalsoc.ac.uk/displaypagedoc.asp?id=9825</a> .	Outside Scope (Uranium Toxicity)
159	Arjun Makhijani/ all issues	Sherry G. Selevan, Deborah C. Rice, Karen A. Hogan, Susan Y. Euling, Andrea Pfahles-Hutchens, and James Bethel. "Blood lead concentration and delayed puberty in girls." <i>New England journal of medicine</i> , v. 348, no. 16, (April 17, 2003). pp. 1527-1536.	Outside Scope (Uranium Toxicity)
160	Arjun Makhijani/ all issues	<del>Brice Smith. <i>What the DOE Knows it Doesn't Know about Grout: Serious Doubts Remain About the Durability of Concrete Proposed to Immobilize High-Level Nuclear Waste in the Tank Farms at the Savannah River Site and other DOE Sites</i>. Institute for Energy and Environmental Research, Takoma Park, Maryland updated October 18, 2004. On the web at <a href="http://www.ieer.org/reports/srs/grout.pdf">http://www.ieer.org/reports/srs/grout.pdf</a>.</del>	<b>STRUCK BY OCTOBER 4 ORDER</b> Outside Scope (DOE Performance)
161	Arjun Makhijani/ all issues	"More Money=Less Performance at WIPP." <i>Voices from the Earth</i> , v. 3, no. 1 (2002). On the Web at <a href="http://www.sric.org/voices/2002/v3n1/wippv3n1.html">http://www.sric.org/voices/2002/v3n1/wippv3n1.html</a> .	Outside Scope (Other) - press release on budget for WIPP; no apparent connection to any issue in this proceeding; not referenced in testimony.
162	Arjun Makhijani/ all issues	Julian Steyn. Email to Rod Krich. "DUF6 re conf call today." January 10, 2003, 12:35 PM. Three Excel tables attached. Referred to as "Replacement tables."	
163	Arjun Makhijani/ all issues	Julian Steyn. Email to Rod Krich. "More tables." January 10, 2003, 12:36 PM. Three Excel tables attached.	
164	Arjun Makhijani/ all issues	Julian Steyn. Email to Rod Krich. "DOE-UDS DUF6 Project." February 13, 2003.	Not Referenced In Testimony, but Potentially Relevant

Exhibit #	Witness/ Panel	Description	Basis for Objection (if any)
165	Arjun Makhijani/ all issues	Carl Voegtlin and Harold C. Hodge. <i>Pharmacology and toxicology of uranium compounds: chronic inhalation and other studies</i> . 1st ed. New York: McGraw-Hill, 1953.	Outside Scope (Uranium Toxicity)
57	Arjun Makhijani/ all issues	Voilleque et al. <i>Fernald Dosimetry Reconstruction Project, Tasks 2 and 3: Radionuclide Source Terms and Uncertainties</i> . Neeses, SC: Radiological Assessments Corporation, 1995.	Outside Scope (Uranium Toxicity)
166	Arjun Makhijani/ all issues	World Health Organization. Department of Protection of the Human Environment. <i>Depleted uranium: sources, exposure and health effects</i> . WHO/SDE/PHE/01.1. Geneva: WHO, April 2001. Links on the Web at <a href="http://www.who.int/ionizing_radiation/pub_meet/ir_public/en/">http://www.who.int/ionizing radiation/pub meet/ir public/en/</a> .	Outside Scope (Uranium Toxicity)
167	Arjun Makhijani/ all issues	<del>U.S. Nuclear Regulatory Commission, "Draft Environmental Impact Assessment on 10 CFR 61 'Licensing Requirements for Land Disposal of Radioactive Waste'", Main Report, September 1981 (NUREG-0782, Vol. 2)</del>	<del>STRUCK BY OCTOBER 4 ORDER Outside Scope (Other) Table of Contents of Part 61 DEIS; no apparent relevance of table of contents.</del>
168	Arjun Makhijani/ all issues	U.S. Nuclear Regulatory Commission, "Draft Environmental Impact Assessment on 10 CFR 61 'Licensing Requirements for Land Disposal of Radioactive Waste'", Appendices G-Q, September 1981 (NUREG-0782, Vol. 4)	
169	Arjun Makhijani/ all issues	U.S. Nuclear Regulatory Commission, "Final Environmental Impact Assessment on 10 CFR 61 'Licensing Requirements for Land Disposal of Radioactive Waste'", Summary and Main Report, November 1982 (NUREG-0945, Vol. 1)	
170	Arjun Makhijani/ all issues	<del>R.D. Baird, M.K. Bollenbacher, E.S. Murphy, R. Shuman, and P.B. Klein, "Evaluation of the Potential Public Health Impacts Associated with Radioactive Waste Disposal at a Site Near Clive, Utah", Rogers and Associates Engineering Corporation, June 1990 (RAE-9004/2-1)</del>	<del>STRUCK BY OCTOBER 4 ORDER Outside Scope (Uranium Toxicity) Outside Scope (Envirocare License)</del>

Exhibit #	Witness/ Panel	Description	Basis for Objection (if any)
171	Arjun Makhijani/ all issues	R.D. Baird, G.B. Merrell, D.E. Bernhardt, and V.C. Rogers, "Additional Radionuclide Concentration Limits for the NORM Disposal Site at Clive, Utah", Rogers and Associates Engineering Corporation, August 1990 (RAE-9000/16-1)	STRUCK BY OCTOBER 4 ORDER Outside Scope (Envirocare License)
172	Arjun Makhijani/ all issues	Joe Bauman, "Senate OKs Class B, C waste ban", <i>Deseret Morning News (Salt Lake City)</i> , February 3, 2005	STRUCK BY OCTOBER 4 ORDER
173	Arjun Makhijani/ all issues	Joe Bauman, "House votes to ban importing of B, C wastes", <i>Deseret Morning News (Salt Lake City)</i> , February 10, 2005	STRUCK BY OCTOBER 4 ORDER
174	Arjun Makhijani/ all issues	Letter from James R. Carr, Professor of Geological Sciences and Engineering at the University of Nevada, Reno, to Arjun Makhijani, Regarding the Potential for Erosion at the Proposed WCS Site, May 16, 2005	STRUCK BY OCTOBER 4 ORDER Outside Scope (WCS License)
175	Arjun Makhijani/ all issues	Wire Reports, "Probation threatened for nuclear agency", <i>Dallas Morning News</i> , April 30, 2005	STRUCK BY OCTOBER 4 ORDER Outside Scope (WCS License)
176	Arjun Makhijani/ all issues	U.S. Department of Energy, "Integrated Data Base Report—1994: U.S. Spent Nuclear Fuel and Radioactive Waste Inventories, Projections, and Characteristics", September 1995 (DOE/RW-0006, Rev. 11)	STRUCK BY OCTOBER 4 ORDER Outside Scope (Other)—DOE Report on spent fuel and high-level waste inventories; excerpt on volume and radioactivity of inventories; no apparent connection to any issue in this proceeding.
177	Arjun Makhijani/ all issues	U.S. Department of Energy, "Integrated Data Base Report—1996: U.S. Spent Nuclear Fuel and Radioactive Waste Inventories, Projections, and Characteristics", December 1997 (DOE/RW-0006, Rev. 13)	STRUCK BY OCTOBER 4 ORDER Outside Scope (Other)—DOE Report on spent fuel and high-level waste inventories; excerpt on volume and radioactivity of inventories; no apparent connection to any issue in this proceeding.
178	Arjun Makhijani/ all issues	U.S. Department of Energy, "Summary Data on the Radioactive Waste, Spent Nuclear Fuel, and Contaminated Media Managed by the U.S. Department of Energy", April 2001	STRUCK BY OCTOBER 4 ORDER Outside Scope (Other)—DOE Report on spent fuel and high-level waste inventories; excerpt on volume and radioactivity of inventories; no apparent connection to any issue in this proceeding.

Exhibit #	Witness/ Panel	Description	Basis for Objection (if any)
179	Arjun Makhijani/ all issues	Envirocare of Utah, LLC, "State of Utah Radioactive Material License UT-2300249: Amendment 22", adopted June 13, 2005, online at <a href="http://www.envllc.com/pages/lp/index.php">http://www.envllc.com/pages/lp/index.php</a> (as viewed on July 1, 2005)	STRUCK BY OCTOBER 4 ORDER Outside Scope (Envirocare License)
180	Arjun Makhijani/ all issues	Envirocare of Utah, LLC. Press Release, "Envirocare Purchased By Investor Group: New Owners Call for Ban of B & C Waste in the State of Utah", February 1, 2005	STRUCK BY OCTOBER 4 ORDER
181	Arjun Makhijani/ all issues	U.S. Environmental Protection Agency, "Understanding Variation in Partition Coefficient, $K_d$ , Values Volume II: Review of Geochemistry and Available $K_d$ Values for Cadmium, Cesium, Chromium, Lead, Plutonium, Radon, Strontium, Thorium, Tritium ( $^3\text{H}$ ), and Uranium", August 1999 (EPA-402-R-99-004B)	STRUCK BY OCTOBER 4 ORDER Outside Scope (Uranium Toxicity)
182	Arjun Makhijani/ all issues	Memo to Susan White, Staff Attorney, From Stephen D. Etter, Staff Geologist for the Texas Natural Resource Conservation Commission, "Suitability of the Waste Control Specialists, Inc. Site, Andrews County, Texas, for Disposal of Radioactive Wastes, Draft", April 1996	STRUCK BY OCTOBER 4 ORDER Outside Scope (WCS License)
183	Arjun Makhijani/ all issues	U.S. General Accounting Office, "Low-Level Radioactive Waste: Disposal Availability Adequate in the Short Term, but Oversight Needed to Identify Any Future Shortfalls", Report to the Chairman, Committee on Energy and Natural Resources, U.S. Senate, June 2004 (GAO-04-604)	STRUCK BY OCTOBER 4 ORDER Outside Scope (DOE Performance)
184	Arjun Makhijani/ all issues	Patty Henetz, "Huntsman signs waste ban measure; Class B and C: The material can be thousands of times hotter than what Envirocare of Utah deals in", <i>Salt Lake City Tribune</i> , February 26, 2005	STRUCK BY OCTOBER 4 ORDER
185	Arjun Makhijani/ all issues	International Atomic Energy Agency, "Scientific and Technical Basis for the Geologic Disposal of Radioactive Wastes", Technical Reports Series No. 413, February 2003 (STI/DOC/010/413)	

Exhibit #	Witness/ Panel	Description	Basis for Objection (if any)
186	Arjun Makhijani/ all issues	A Joint Report by the OECD Nuclear Energy Agency and the International Atomic Energy Agency, "Management of Depleted Uranium", 2004	STRUCK BY OCTOBER 4 ORDER
187	Arjun Makhijani/ all issues	Letter to Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, From R.M. Krich, LES, "Clarifying Information Related to Depleted UF <sub>6</sub> Disposition Costs and Request for License Condition", March 29, 2005 (NEF#05-016)	
188	Arjun Makhijani/ all issues	Letter to Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, From R.M. Krich, LES, "Clarifying Information Related to Depleted UF <sub>6</sub> Disposition Costs and Application for Withholding Information from Public Disclosure", April 8, 2005 (NEF#05-017)	STRUCK BY OCTOBER 4 ORDER Outside Scope (Envirocare License) cited for Amendment 22.
189	Arjun Makhijani/ all issues	Arjun Makhijani and Sriram Gopal, "Setting Cleanup Standards to Protect Future Generations: The Scientific Basis of the Subsistence Farmer Scenario and Its Application to the Estimation of Radionuclide Soil Action Levels (RSALs) for Rocky Flats", December 2004	STRUCK BY OCTOBER 4 ORDER Outside Scope (WCS License)
190	Arjun Makhijani/ all issues	Arjun Makhijani and Brice Smith, "Costs and Risks of Management and Disposal of Depleted Uranium from the National Enrichment Facility Proposed to be Built in Lea County New Mexico by LES", November 24, 2004	
191	Arjun Makhijani/ all issues	U.S. Nuclear Regulatory Commission, "Environmental Impact Statement for the Proposed National Enrichment Facility in Lea County, New Mexico: Final Report", Chapters 1 through 10 and Appendices A through G, June 2005 (NUREG-1790, Vol. 1)	
192	Arjun Makhijani/ all issues	U.S. Nuclear Regulatory Commission, "Environmental Impact Statement for the Proposed National Enrichment Facility in Lea County, New Mexico: Final Report", Appendices H through J, June 2005 (NUREG-1790, Vol. 2)	Outside Scope (WCS License)

Exhibit #	Witness/ Panel	Description	Basis for Objection (if any)
193	Arjun Makhijani/ all issues	James M. Taylor, "Disposition of Depleted Uranium Tails from Enrichment Plants", Enclosure: Factors Involved in the Disposition of Depleted Uranium Hexafluoride DUF <sub>6</sub> Tails, January 25, 1991 (SECY-91-019)	
194	Arjun Makhijani/ all issues	U.S. Nuclear Regulatory Commission, "Nuclear Regulatory Legislation: 107th Congress; 1st Session", June 2002 (NUREG-0980 Vol. 1, No. 6)	<del>STRUCK BY OCTOBER 4 ORDER Outside Scope (Other)—cites Section 274, presumably for proposition that NRC can rescind Agreement State authority (see p. 41 of NIRS/PC Profiled Disposal Testimony). Without conceding this point, this proceeding is not the venue for determining whether an Agreement State is meeting its obligations, and, if not, whether the NRC can rescind the authority; duplicates Exhibit 88.</del>
195	Arjun Makhijani/ all issues	U.S. Nuclear Regulatory Commission in the matter of Louisiana Energy Services, L.P.(National Enrichment Facility), "Memorandum and Order", CLI-05-05, Docket No. 70-3103-ML, January 18, 2005	
196	Arjun Makhijani/ all issues	<del>Ian Saunders and Anthony Young, "Rates of Surface Processes on Slopes, Slope Retreat, and Denudation", <i>Earth Surface Processes and Landforms</i>, Vol. 8, 473-501 (1983)</del>	<del>STRUCK BY OCTOBER 4 ORDER Outside Scope (WCS License)</del>
197	Arjun Makhijani/ all issues	<del>H. Jochen Schenk and Robert B. Jackson, "Rooting depths, lateral root spreads and below-ground/above-ground allometries of plants in water-limited ecosystems", <i>Journal of Ecology</i>, Vol. 90, 480-494 (2002)</del>	<del>STRUCK BY OCTOBER 4 ORDER Outside Scope (WCS License)</del>
198	Arjun Makhijani/ all issues	<del>Glenn T. Seaborg, Chairman of the Atomic Energy Commission, and Price Daniel, Governor of Texas, "Agreement Between the United States Atomic Energy Commission and the State of Texas for Discontinuance of Certain Commission Regulatory Authority and Responsibility Within the State Pursuant to Section 274 of the Atomic Energy Act of 1954, as Amended", 1963</del>	<del>STRUCK BY OCTOBER 4 ORDER Outside Scope (WCS License)</del>

Exhibit #	Witness/ Panel	Description	Basis for Objection (if any)
199	Arjun Makhijani/ all issues	Waste Control Specialists, LLC., "Application for License to Authorize Near Surface Land Disposal of Low-Level Radioactive Waste", originally filed on August 4, 2004 and ruled Administratively Complete by the Texas Commission on Environmental Quality on February 18, 2005, available online at <a href="http://64.224.191.188/wcs/">http://64.224.191.188/wcs/</a>	<b>STRUCK BY OCTOBER 4 ORDER</b> Outside Scope (WCS License)
200	Arjun Makhijani/ all issues	Letter from Wade M. Wheatley to Glenn Shankle, "License Application for a Proposed Low-Level Radioactive Waste Disposal Facility: Evaluation of Merit", Texas Commission on Environmental Quality, April 26, 2005	<b>STRUCK BY OCTOBER 4 ORDER</b> Outside Scope (WCS License)
201	Arjun Makhijani/ all issues	C. Yu et al., "Data Collection Handbook to Support Modeling Impacts of Radioactive Material in Soil", Argonne National Laboratory, April 1993	Outside Scope (WCS License)
202	Arjun Makhijani/ all issues	U.S. Code of Federal Regulations, "Title 40—Protection of Environment: Chapter I—Environmental Protection Agency; Part 141—National primary drinking water regulations", July 1, 2004, online at <a href="http://www.access.gpo.gov/nara/cfr/waisidx_04/40cfr_141_04.html">http://www.access.gpo.gov/nara/cfr/waisidx_04/40cfr_141_04.html</a>	<b>STRUCK BY OCTOBER 4 ORDER</b> Outside Scope (WCS License)
203	Arjun Makhijani/ all issues	U.S. Nuclear Regulatory Commission, Office of Waste Management and Environmental Protection, Office of Nuclear Material Safety and Safeguards, <i>Environmental Impact Statement for the Proposed American Centrifuge Plant in Piketon, Ohio</i> , Draft Report for Comment, August 2005 (NUREG-1834)	
204	Arjun Makhijani/ all issues	U.S. Nuclear Regulatory Commission, Atomic Safety and Licensing Board, In the Matter of Louisiana Energy Services, L.P. (National Enrichment Facility), "Memorandum and Order: (Ruling on Motion to Admit Late-Filed Amended and Supplemental Contentions)", Docket No. 70-3103-ML, ASLBP No. 04-826-01-ML, August 4, 2005.	

Exhibit #	Witness/ Panel	Description	Basis for Objection (if any)
205	Arjun Makhijani/ all issues	U.S. Nuclear Regulatory Commission, Atomic Safety and Licensing Board, In the Matter of Louisiana Energy Services, L.P.(Claiborne Enrichment Center), LBP-97-3, Docket No. 70-3070-ML, ASLBP No. 91-641-02-ML (Special Nuclear Material License), 45 N.R.C. 99, 1997 WL 345666 (N.R.C.), March 7, 1997.	
206	Arjun Makhijani/ all issues	U.S. Nuclear Regulatory Commission, Atomic Safety and Licensing Board, In the Matter of Louisiana Energy Services, L.P.(National Enrichment Facility), "Memorandum and Order: (Ruling on NIRS/PC Late-Filed Contention Amendments)", Docket No. 70-3103-ML, ASLBP No. 04-826-01-ML, June 30, 2005.	
207	Arjun Makhijani/ all issues	Jeff Barron, "Plant construction falls behind", <i>Portsmouth Daily Times</i> , July 15, 2005.	STRUCK BY OCTOBER 4 ORDER Outside Scope (DOE Performance)
208	Arjun Makhijani/ all issues	U.S. Department of Energy, <i>Closing the Circle on the Splitting of the Atom: The Environmental Legacy of Nuclear Weapons Production in the United States and What the Department of Energy is Doing About It</i> , DOE/EM-0266, Washington, D.C.: DOE Office of Environmental Management, Office of Strategic Planning and Analysis, January 1996. Closing the Circle on the Splitting of the Atom online at <a href="http://legacystory.apps.em.doe.gov/text/close/close2.htm">http://legacystory.apps.em.doe.gov/text/close/close2.htm</a> .	STRUCK BY OCTOBER 4 ORDER Outside Scope (DOE Performance)
209	Arjun Makhijani/ all issues	U.S. Department of Energy, <i>The Current and Planned Low-Level Waste Disposal Capacity Report, Revision 1</i> , September 18, 1998.	STRUCK BY OCTOBER 4 ORDER Outside Scope (DOE Performance)
210	Arjun Makhijani/ all issues	U.S. Department of Energy, <i>The Current and Planned Low-Level Waste Disposal Capacity Report, Revision 2</i> , DOE Office of Environmental Management, December 2005.	Outside Scope (DOE Performance) - not referenced in testimony, but is simply a revised version of Ex. 209 which was excluded by the October 4 Order.

Exhibit #	Witness/ Panel	Description	Basis for Objection (if any)
211	Arjun Makhijani/ all issues	U.S. General Accounting Office, "Nuclear Waste: Defense Waste Processing Facility—Cost, Schedule, and Technical Issues", Report to the Chairman, Environment, Energy, and Natural Resources Subcommittee, Committee on Government Operations, House of Representatives, June 1992 (GAO/RCED-92-183)	STRUCK BY OCTOBER 4 ORDER Outside Scope (DOE Performance)
212	Arjun Makhijani/ all issues	U.S. General Accounting Office, "Federal Research: Super Collider is Over Budget and Behind Schedule", Report to the Congressional Requesters, February 1999-1993 (GAO/RCED-93-87)	STRUCK BY OCTOBER 4 ORDER Outside Scope (DOE Performance)
213	Arjun Makhijani/ all issues	U.S. General Accounting Office, "Department of Energy: Management and Oversight of Cleanup Activities at Fernald", Report to the Congressional Requesters, March 1997 (GAO/RCED-97-63)	STRUCK BY OCTOBER 4 ORDER Outside Scope (DOE Performance)
214	Arjun Makhijani/ all issues	U.S. General Accounting Office, "Nuclear Waste: Yucca Mountain Project Management and Funding Issues", Statement of Jim Wells, Testimony before the Subcommittee on Energy and Power, Committee on Energy and Commerce and the Subcommittee on Energy and Mineral Resources, Committee on Natural Resources, House of Representatives, July 1, 1993 (GAO/RCED-93-58)	STRUCK BY OCTOBER 4 ORDER Outside Scope (DOE Performance)
215	Arjun Makhijani/ all issues	U.S. General Accounting Office, "Nuclear Waste: Schedule, Cost, and Management Issues at DOE's Hanford Tank Waste Project", Statement of Ms. Gary L. Jones, Testimony before the Subcommittee on Oversight and Investigations, Committee on Commerce, House of Representatives, October 8, 1998 (GAO/RCED-99-21)	STRUCK BY OCTOBER 4 ORDER Outside Scope (DOE Performance)
216	Arjun Makhijani/ all issues	U.S. General Accounting Office, "Nuclear Waste: Technical, Schedule, and Cost Uncertainties of the Yucca Mountain Repository Project", Report to the Congressional Requesters, December 2001 (GAO-02-191)	STRUCK BY OCTOBER 4 ORDER Outside Scope (DOE Performance)

Exhibit #	Witness/ Panel	Description	Basis for Objection (if any)
217	Arjun Makhijani/ all issues	U.S. General Accounting Office, "Nuclear Waste: Challenges to Achieving Potential Savings in DOE's High-Level Waste Cleanup Program", Report to the Chairman, Subcommittee on Oversight and Investigations, Committee on Energy and Commerce, House of Representatives, June 2003 (GAO-03-593)	STRUCK BY OCTOBER 4 ORDER Outside Scope (DOE Performance)
218	Arjun Makhijani/ all issues	Thomas C. Gustavson and William W. Simpkins. "Geomorphic Processes and Rates of Retreat Affecting the Caprock Escarpment, Texas Panhandle." Austin, University of Texas at Austin, Bureau of Economic Geology, 1989 (Reports of Investigations no. 180)	Outside Scope (WCS License) - not referenced in testimony; not relevant.
219	Arjun Makhijani/ all issues	Mark Holt, "Civilian nuclear waste disposal", CRS Issue Brief for Congress, Order code IP92059, Congressional Research Service, Updated June 9, 2005.	STRUCK BY OCTOBER 4 ORDER Outside Scope (DOE Performance)
220	Arjun Makhijani/ all issues	Timothy C. Johnson to James W. Clifford, "April 19, 2005, In-Office Review Summary: Louisiana Energy Services Decommissioning Funding", April 29, 2005. Internal NRC memo.	
221	Arjun Makhijani/ all issues	U.S. Nuclear Regulatory Commission, before the Atomic Safety and Licensing Board, In the Matter of Louisiana Energy Services, L.P. (National Enrichment Facility), "Applicant's Objections and Responses to Nuclear Information and Resource Service's and Public Citizen's Second Supplemental Interrogatories and Document Request", Docket No. 70-3103-ML, ASLBP No. 04-826-01-ML, August 11, 2005.	
222	Arjun Makhijani/ all issues	Louisiana Energy Services, "National Enrichment Facility License Application Safety Analysis Report", Revision 2, July 2004, On the Web at <a href="http://www.nrc.gov/materials/fuel-cycle-fac/ml042190038.pdf">http://www.nrc.gov/materials/fuel-cycle-fac/ml042190038.pdf</a> .	

Exhibit #	Witness/ Panel	Description	Basis for Objection (if any)
223	Arjun Makhijani/ all issues	Eve M. Meek, David R. Gallay, Douglas A. Gray, and Gerald W. Westerbeck, "An Analysis of DOE's Cost to Dispose of DUF6", LMI Government Consulting, December 2004 (Report DE523T1)	STRUCK BY OCTOBER 4 ORDER
224	Arjun Makhijani/ all issues	Arjun Makhijani and Brice Smith, <i>Update to Costs and Risks of Management and Disposal of Depleted Uranium from the National Enrichment Facility Proposed to be Built in Lea County New Mexico by LES</i> , July 5, 2005.	Not Referenced In Testimony, but Potentially Relevant
225	Arjun Makhijani/ all issues	Richard R. Merson (Chair) et al., "Health Risks from Exposure to Low Levels of Ionizing Radiation: BEIR VII Phase 2", Committee to Assess Health Risks from Exposure to Low Levels of Ionizing Radiation, Board on Radiation Effects Research, National Academies Press, Washington, DC (2005)	STRUCK BY OCTOBER 4 ORDER Outside Scope (Uranium Toxicity)
226	Arjun Makhijani/ all issues	<i>Deposition of Rod Krich</i> . Friday, August 26, 2005. In the matter of Louisiana Energy Services (National Enrichment Facility) v. Nuclear Information and Resource Service and Public Citizen. U.S. Nuclear Regulatory Commission, Docket No. 70-3103-ML; ASLBP No. 04-826-01-ML. Deposition took place in offices of Winston & Strawn, Washington, DC.	
227	Arjun Makhijani/ all issues	Richard Rowberg, "The National Ignition Facility: Management, Technical, and Other Issues", CRS report for Congress, Order code RL30540, Congressional Research Service, Updated November 8, 2001.	STRUCK BY OCTOBER 4 ORDER Outside Scope (DOE Performance)
228	Arjun Makhijani/ all issues	Texas Commission on Environmental Quality, "Lineup of Legislation, The TCEQ's playbook grows with new responsibilities, laws to implement", <i>Natural Outlook</i> , Summer 2003, online at <a href="http://www.tceq.state.tx.us/AC/comm_exec/forms_pubs/pubs/pd/020/03-03/legislation.html">http://www.tceq.state.tx.us/AC/comm_exec/forms_pubs/pubs/pd/020/03-03/legislation.html</a> (Last Modified 8/4/05)	STRUCK BY OCTOBER 4 ORDER Outside Scope (WCS License)
229	Deconversion	Designated portions of deposition of Compton, Duperret, Harding, Krich, and Schneider, Sept. 2, 2005 (Proprietary).	Not Referenced In Testimony, but Potentially Relevant

Exhibit #	Witness/ Panel	Description	Basis for Objection (if any)
230	Deconversion	Letter from Frank Shallo (Cogema) to W. Howard Arnold (LES), Oct. 16, 1991.	Not Referenced In Testimony, but Potentially Relevant
231	Deconversion	Letter from Frank Shallo (Cogema) to W. Howard Arnold (LES), Feb. 22, 1995.	Not Referenced In Testimony, but Potentially Relevant
232	Deconversion	Notes of meeting between Urenco and Framatome concerning tails hex deconversion, 13 July 2004 (Proprietary).	Not Referenced In Testimony, but Potentially Relevant
233	Deconversion	Facsimile transmission from Peter Harding (Urenco) to Jim Ferland (LES), July 16, 2004 (Proprietary).	Not Referenced In Testimony, but Potentially Relevant
234	Deconversion	Cover letter (Nov. 1, 2004) with Urenco spread sheets concerning deconversion plants (Proprietary).	Not Referenced In Testimony, but Potentially Relevant
235	Deconversion	E-mail from Leslie Compton (LES) to M. Bacon (Ewing Bemiss), Oct. 11, 2004, with attachments (Proprietary).	Not Referenced In Testimony, but Potentially Relevant
236	Deconversion	Parameter sheets prepared by Leslie Compton (LES) (Proprietary).	Not Referenced In Testimony, but Potentially Relevant
237	Deconversion	E-mail from Allan Brown (Urenco) to Chris Chater (Urenco), June 2, 2004 (Proprietary).	Not Referenced In Testimony, but Potentially Relevant
238	Deconversion	Cover letter (July 18, 2005) with tables concerning NEF private deconversion cost estimate (Proprietary).	Not Referenced In Testimony, but Potentially Relevant
239	Deconversion	Cover letter (July 26, 2005) with statement concerning private deconversion cost estimate (Proprietary).	Not Referenced In Testimony, but Potentially Relevant
240	Deconversion	Designated portions of deposition of Chater, DuPerret, Fisk, Krich, Pratt, Schneider, Schwartz, and Steyn, Oct. 4, 2004 (Proprietary).	
241	Transportation	Designated portions of deposition of Rod Krich, Aug. 26, 2005 (Proprietary).	Not Referenced In Testimony, but Potentially Relevant
242	Transportation	E-mail from Rod Fisk to Rod Krich, Dec. 2, 2004, with handwritten notations (Proprietary).	
243	Disposal	Designated portions of deposition of Krich and Potter, Aug. 30, 2005 (Proprietary).	Not Referenced In Testimony, but Potentially Relevant
244	Disposal	"LES Activities Related to Depleted Tails Disposition," undated.	Not Referenced In Testimony, but Potentially Relevant
245	Disposal	Letter from George Dials (LES) to Michael Lesar (NRC), Nov. 12, 2002.	Not Referenced In Testimony, but Potentially Relevant

Exhibit #	Witness/ Panel	Description	Basis for Objection (if any)
246	Disposal	Environmental Report, sec. 4.13, Rev. 2, July 2004.	Not Referenced In Testimony, but Potentially Relevant
247	Disposal	Letter from Robert Bernero (NRC) to Charles E. Bradley (U.S. DOE), Jan. 3, 1995.	Not Referenced In Testimony, but Potentially Relevant
248	Disposal	Letter from Eric Leeds (NRC) to Depleted Uranium Hexafluoride Management (U.S. DOE), Oct. 18, 2000.	Not Referenced In Testimony, but Potentially Relevant
249	Disposal	Extract from NUREG-1757 (pp. 4-1 through 4-15).	Not Referenced In Testimony, but Potentially Relevant
250	Disposal	Response to Request for Additional Information from LES to NRC Staff, Feb. 11, 2005.	Not Referenced In Testimony, but Potentially Relevant
251	Disposal	Memorandum from Timothy Johnson to Joseph Giltter, March 15, 2005.	Not Referenced In Testimony, but Potentially Relevant
252	Disposal	Memorandum from Timothy Johnson to Joseph Giltter, April 11, 2005.	Not Referenced In Testimony, but Potentially Relevant
253	Disposal	Designated portions of deposition of Kay, Krich, Lessard, Schwartz, and Steyn, Oct. 8, 2004 (Proprietary).	Not Referenced In Testimony, but Potentially Relevant
254	Disposal	Designated portions of deposition of Krich, Harper, Panzarino, and Potter, Oct. 12, 2004 (Proprietary).	Not Referenced In Testimony, but Potentially Relevant
255	Disposal	Letter from Peter LeRoy (LES) to Charles Haughney (NRC), Oct. 1, 1991, with attached Depleted Uranium Hexafluoride Management Study.	Not Referenced In Testimony, but Potentially Relevant
256	Disposal	Letter from John Hickey (NRC) to W. Howard Arnold (LES), Sept. 22, 1992.	Not Referenced In Testimony, but Potentially Relevant
257	Disposal	"Assessment of Preferred Depleted Uranium Disposal Forms," June 2000 (Oak Ridge National Laboratory).	Not Referenced In Testimony, but Potentially Relevant
258	Contingency Factor	Designated portions of deposition of LaGuardia and Krich, Aug. 26, 2005.	Not Referenced In Testimony, but Potentially Relevant

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October 7, 2005

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

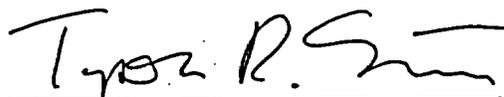
BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of:	)	Docket No. 70-3103-ML
	)	
Louisiana Energy Services, L.P.	)	ASLBP No. 04-826-01-ML
	)	
(National Enrichment Facility)	)	

NOTICE OF APPEARANCE

Notice is hereby given that the undersigned attorney herewith enters an appearance in the captioned matter. In accordance with 10 C.F.R. § 2.314(b), the following information is provided:

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Name of Party:	Louisiana Energy Services, L.P.



\_\_\_\_\_  
Tyson R. Smith  
Winston & Strawn LLP  
Counsel for Louisiana Energy Services, L.P.

Dated at Washington, District of Columbia  
this 7<sup>th</sup> day of October 2005

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of:	)	Docket No. 70-3103-ML
	)	
Louisiana Energy Services, L.P.	)	ASLBP No. 04-826-01-ML
	)	
(National Enrichment Facility)	)	

CERTIFICATE OF SERVICE

I hereby certify that copies of the "MOTION IN LIMINE ON BEHALF OF LOUISIANA ENERGY SERVICES, L.P. CONCERNING THE EXHIBITS OF NUCLEAR INFORMATION AND RESOURCE SERVICE AND PUBLIC CITIZEN" and "NOTICE OF APPEARANCE" in the captioned proceeding has been served on the following by e-mail service, designated by \*\*, on October 7, 2005 as shown below. Additional service has been made by deposit in the United States mail, first class, this 7th day of October 2005.

Chairman Nils J. Diaz  
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Washington, DC 20555-0001

Commissioner Jeffrey S. Merrifield  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

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Commissioner Gregory B. Jaczko  
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Commissioner Peter B. Lyons  
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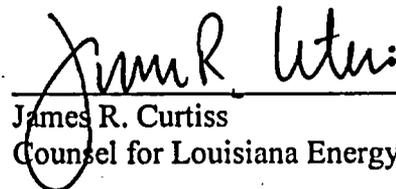
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