

October 21, 2005

Mr. Rod Krich, Vice President
Licensing, Safety, and Nuclear Engineering
Louisiana Energy Services
2600 Virginia Avenue NW, Suite 610
Washington, DC 20037

SUBJECT: APPROVAL OF LOUISIANA ENERGY SERVICES REQUEST FOR
WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE (LOUISIANA
ENERGY SERVICES GAS CENTRIFUGE URANIUM ENRICHMENT FACILITY)

Dear Mr. Krich:

By letter dated October 18, 2005 (NEF#05-031), Louisiana Energy Services (LES) submitted an affidavit dated October 3, 2005, executed by Mr. Larry W. Brown. In the letter, you requested that the information provided in an August 12, 2005, LES response to a U.S. Nuclear Regulatory Commission (NRC) request for additional information (RAI) be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR), Part 2, Section 390. The information provided in the August 12, 2005, response contains information from a proprietary U.S. Department of Energy (DOE) report on uranium tails disposition costs.

You did not provide a non-proprietary version of the above documents.

In the affidavit, dated October 3, 2005, Mr. Brown of DOE stated that the information in the response to the NRC RAI should be withheld from public disclosure for the following reasons:

1. It is information that is customarily held in confidence by DOE and is in fact so held.
2. It is information that is not available in public sources.
3. The information was developed with the explicit understanding that the document would be treated as an internal predecisional agency document. DOE has consistently treated the information as confidential and to be withheld from public disclosure.
4. It was transmitted to and received by the U.S. Nuclear Regulatory Commission in confidence.
5. It is predecisional material that falls under the "deliberative process" privilege of the Freedom of Information Act, which permits the government to withhold documents that reflect advisory opinions, recommendations, and deliberations comprising part of the process by which government formulates decisions and policies. Thus, the harm that would result from release of the report is an impairment of the quality of agency decision making by curbing frank and independent internal discussion.

R. Krich

- 2 -

We have reviewed the justifications you provided in accordance with the requirements of 10 CFR 2.390 and, on the basis of your statements, have determined that the submitted information sought to be withheld contains proprietary commercial information and should be withheld from public disclosure.

Withholding from public inspection shall not affect the right, if any, of persons properly and directly concerned to inspect the documents. If the need arises, we may send copies of this information to our consultants working in this area. We will, of course, ensure that the consultants have signed the appropriate agreements for handling proprietary information.

If the basis for withholding this information from public inspection should change in the future such that the information could then be made available for public inspection, you should promptly notify the NRC. You also should understand that the NRC may have cause to review this determination in the future, for example, if the scope of a Freedom of Information Act request includes your information. In all review situations, if the NRC makes a determination adverse to the above, you will be notified in advance of any public disclosure.

Sincerely,

/RA/

James W. Clifford, Acting Chief
Special Projects Branch
Division of Fuel Cycle Safety
and Safeguards
Office of Nuclear Material Safety
and Safeguards

Docket: 70-3103

cc:

William Szymanski/DOE
Monty Newman/Hobbs
Peter Miner/USEC
Glen Hackler/Andrews
James Brown/Eunice
Jerry Clift/Hartsville
Joseph Malherek/PC
Clay Clark/NMED
Roger Mulder/Texas

Claydean Claiborne/Jal
James Curtiss/W&S
Betty Richman/Tatum
Lue Ethridge/Lea Cty
Richard Ratliff/Texas
CO'Claire/Ohio
Ron Curry/NMED
Patricia Madrid/NMAG

Lindsay Lovejoy/NIRS
Troy Harris/Lovington
James Ferland/LES
John Parker/NMED
M. Marriotte/NIRS
Lee Cheney/CNIC
D. Watchman-Moore/NMED
Glen Smith/NMAG

We have reviewed the justifications you provided in accordance with the requirements of 10 CFR 2.390 and, on the basis of your statements, have determined that the submitted information sought to be withheld contains proprietary commercial information and should be withheld from public disclosure.

Withholding from public inspection shall not affect the right, if any, of persons properly and directly concerned to inspect the documents. If the need arises, we may send copies of this information to our consultants working in this area. We will, of course, ensure that the consultants have signed the appropriate agreements for handling proprietary information.

If the basis for withholding this information from public inspection should change in the future such that the information could then be made available for public inspection, you should promptly notify the NRC. You also should understand that the NRC may have cause to review this determination in the future, for example, if the scope of a Freedom of Information Act request includes your information. In all review situations, if the NRC makes a determination adverse to the above, you will be notified in advance of any public disclosure.

Sincerely,

/RA/

James W. Clifford, Acting Chief
Special Projects Branch
Division of Fuel Cycle Safety
and Safeguards
Office of Nuclear Material Safety
and Safeguards

Docket: 70-3103

cc:

- | | | |
|------------------------|------------------------|------------------------|
| William Szymanski/DOE | Claydean Claiborne/Jal | Lindsay Lovejoy/NIRS |
| Monty Newman/Hobbs | James Curtiss/W&S | Troy Harris/Lovington |
| Peter Miner/USEC | Betty Richman/Tatum | James Ferland/LES |
| Glen Hackler/Andrews | Lue Ethridge/Lea Cty | John Parker/NMED |
| James Brown/Eunice | Richard Ratliff/Texas | M. Marriotte/NIRS |
| Jerry Clift/Hartsville | CO'Claire/Ohio | Lee Cheney/CNIC |
| Joseph Malherek/PC | Ron Curry/NMED | D. Watchman-Moore/NMED |
| Clay Clark/NMED | Patricia Madrid/NMAG | Glen Smith/NMAG |
| Roger Mulder/Texas | | |

DISTRIBUTION:

- | | | | |
|---------------|------------------|------------------|---------------------|
| FCSS r/f | Docket: 70-3103 | | |
| JGitter/FCSS | SPB r/f | JStrosnider/NMSS | RPierson/FCSS |
| YFaraz/SPB | MFederline/NMSS | JDavis/DWM | MGalloway/TSG |
| SFlanders/DWM | LClark/OGC | DMcIntyre/OPA | RVirgilio/OSTP |
| TCombs/OCA | JPark/DWM | TFredricks/DWM | RTrojanowski/Reg II |
| DAyres/Reg II | KEverly/NSIR | JHenson/Reg II | RHannah/Reg II |
| KClark/Reg II | DSeymour/Reg II | VMitlyng/Reg III | WMaier/Reg IV |
| Hearing file | KO'Brien/Reg III | | |
| | LES website - NO | | |

ML052920093

OFC	GCFLS		GCFLS		OGC		GCFLS		FCSS	
NAME	TJohnson:bkh1		LMarshall		TRothschild		BSmith		JClifford	
DATE	10/19/05		10/19/05		10/20/05		10/19/05		10/21/05	