

October 20, 2005

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	Docket No. 70-3103
LOUISIANA ENERGY SERVICES, L.P.)	
)	ASLBP No. 04-826-01-ML
(National Enrichment Facility))	

NRC STAFF MOTION TO PERMIT SURREBUTTAL TESTIMONY

INTRODUCTION

The parties to this proceeding have filed both direct and rebuttal testimony in anticipation of the upcoming hearing. The hearing schedule did not contemplate surrebuttal testimony. However, upon careful consideration of the rebuttal testimony submitted by NIRS/PC, the Nuclear Regulatory Commission Staff ("Staff") respectfully requests the opportunity to provide oral surrebuttal testimony on the issues of deconversion and disposal at the hearing.

DISCUSSION

In preparation for the upcoming hearing, the Staff has reviewed the rebuttal testimony submitted by Dr. Makhijani for the purpose of preparing cross examination. Upon consideration of that testimony, the Staff has concluded that Dr. Makhijani has in many respects offered fundamental misrepresentations of matters of which the Staff has unique knowledge, such as positions taken by the Staff regarding disposal of depleted uranium, the intent of the Staff in preparing the Draft and Final Environmental Impact Statements, and matters discussed between the Staff and the State of Utah concerning the Envirocare license¹. Accordingly, the

¹ The Staff notes that these matters also relate to the contention which was the subject of the Commission's remand in *Louisiana Energy Services, L.P.* (National Enrichment Facility), CLI-05-20, issued October 19, 2005.

Staff believes that these matters can best be addressed and presented to the Board in form of surrebuttal testimony. Accordingly, the Staff requests the opportunity to present oral surrebuttal testimony on the issues of deconversion and disposal at the hearing. Pursuant to 10 C.F.R. § 2.323(b), the Staff contacted LES and NIRS/PC to obtain their views on this motion. LES expressed no objection; as of this time NIRS/PC has not expressed an opinion to the Staff.

CONCLUSION

For the reasons stated above, the Staff requests the opportunity to provide oral surrebuttal testimony regarding the issues of deconversion and disposal at the hearing commencing on October 24, 2005.

Respectfully submitted,

/RA/

Lisa B. Clark
Counsel for NRC Staff

Dated at Rockville, Maryland
this 20th day of October, 2005

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CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF MOTION TO PERMIT SURREBUTTAL TESTIMONY" in the above-captioned proceedings have been served on the following by deposit in the United States mail; through deposit in the Nuclear Regulatory Commission's internal system as indicated by an asterisk (*), and by electronic mail as indicated by a double asterisk (**) on this 20th day of October, 2005.

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