



UNITED STATES  
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

DOCKETED  
USNRC

December 20, 2005 (3:36pm)

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

**Docket No. 70-3103-ML**

**SERVED December 21, 2005**

December 8, 2005

The Honorable Ed Whitfield  
United States House of Representatives  
Washington, DC 20515-1701

Dear Congressman Whitfield:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your letter dated October 13, 2005, in which you requested that NRC address your constituent's concerns regarding the review of the Louisiana Energy Services (LES) license application for a gas centrifuge uranium enrichment plant to be located in the State of New Mexico. Your constituent raised concerns regarding nuclear proliferation and other national security threats that he believes are posed by this proposed nuclear facility. Specifically, he is concerned about the adequacy of national security reviews of the proposed licensee in light of the loss of control of gas centrifuge technology information at the Urenco facility in the Netherlands. I would like to assure you that before issuing a license, NRC must determine that the licensed activity would not be inimical to the common defense and security and would not constitute an unreasonable risk to the health and safety of the public and that the LES centrifuge facility complies with all safeguards, security, and technology control requirements.

As part of the NRC staff's licensing review of the LES license application, we are evaluating pertinent safeguards and security issues. NRC staff documented its review and findings of the LES license application and related documents, including documents addressing safeguards and security issues, in the Safety Evaluation Report (SER) and the Environmental Impact Statement (EIS). The staff issued a draft EIS in September 2004, as well as a final EIS (NUREG-1790) and SER (NUREG-1827) on June 15, 2005. In addition, the U.S. Department of Energy (DOE) conducted a Foreign Ownership, Control, and Influence (FOCI) review of the application. The purpose of the FOCI review is to assure that U.S. national security information will be appropriately controlled. NRC and DOE are evaluating the potential national security risks of constructing and operating the proposed centrifuge enrichment facility.

The LES centrifuge facility is subject to the regulatory requirements found in Title 10 of the *Code of Federal Regulations* (10 CFR) Parts 25, 73, 74, 75, 95, 110, and 810 (note that 10 CFR Part 810 is a DOE regulation). These regulations provide for security clearances, physical protection of nuclear materials, physical security of the transportation of nuclear materials, and nuclear material control and accounting requirements to assure that uranium is not stolen or enriched to levels higher than authorized. These regulations also provide for international safeguards, protection of classified information, and technology control restrictions to ensure centrifuge technology does not become available to other countries. Any entity with access to classified and export-controlled information in the United States is subject to these same information security requirements.

Currently, LES protects classified information under a facility clearance issued to its security contractor under 10 CFR Part 95. Access to classified information is provided only to those individuals having appropriate security clearances. During construction and operation, classified matter will continue to be protected through the issuance of facility clearances and access to classified information will be limited to those having the appropriate security clearances. NRC inspectors will verify compliance with classified matter requirements through periodic inspections of the LES activities.

As a foreign-owned entity, Urenco is not prohibited from owning and operating a uranium enrichment facility by the Atomic Energy Act of 1954, as amended. In addition, an agreement between the United States and the United Kingdom, the Netherlands, and Germany authorizes the transfer of the Urenco centrifuge technology to the United States and specifies controls on the technology.

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

The Atomic Energy Act, the Nuclear Non-Proliferation Act, the Nuclear Non-Proliferation Treaty, the U.S.–International Atomic Energy Agency (IAEA) Safeguards Agreement, and agreements for nuclear cooperation between the U.S. and certain other countries establish legal requirements to protect nuclear materials and technology against proliferation. The cooperation agreements ensure that nuclear materials and equipment imported to and exported from the United States will be protected in accordance with international standards and will be subject to the relevant IAEA Safeguards Agreement.

In 1983, the United States committed to make all commercial gas centrifuge enrichment plants in the United States eligible for IAEA safeguards inspections. The IAEA is expected to select the LES facility for safeguards inspections before the plant begins operations. The objectives of the IAEA inspections are to ensure (1) timely detection of diversion from a plant's declared nuclear material flow, (2) timely detection of facility misuse to produce undeclared product from undeclared feed, and (3) timely detection of the production of highly enriched uranium. The IAEA is expected to inspect the facility, if licensed, several times a year when the LES facility becomes operational. It is noteworthy that the Netherlands, Germany and the U.K., also which are signatories to the Nuclear Non-Proliferation Treaty, are subject to IAEA safeguards inspections of their gas centrifuge enrichment facilities, and implement the Nuclear Supplier's Group export control guidelines.

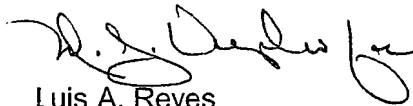
E. Whitfield

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

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

Sincerely,

A handwritten signature in black ink, appearing to read "Luis A. Reyes". The signature is fluid and cursive, with a large initial "L" and "R".

Luis A. Reyes  
Executive Director  
for Operations

ED WHITFIELD  
1ST DISTRICT, KENTUCKY

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THE INTERNET

**Congress of the United States**  
**House of Representatives**  
Washington, DC 20515-1701

October 13, 2005

Ms. Rebecca L. Schmidt  
Director  
Off. of Congressional Affairs  
Nuclear Regulatory Commission  
Mail Stop 17A3  
Washington, DC 20555

Dear Ms. Schmidt:

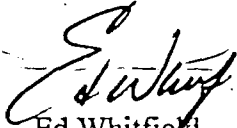
One of my constituents has contacted me regarding a matter in which I believe your agency could be helpful. Therefore, the enclosed communication is submitted for your review.

I would very much appreciate your responding to the points raised by my constituent, and offering any assistance available under the applicable laws and regulations. In addition, I would be especially grateful if you could respond to my Washington office.

The contact person on my staff for this case is Karen Long. She can be reached at (202) 225-3115.

Thank you very much for your consideration, and for advising me of any action you should take in this matter.

Sincerely,



Ed Whitfield  
Member of Congress

EW:kl

Enclosure

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To: Rep Ed Whitfield  
Fax Number: 2022253547  
From: Neal Overfield  
RE: Demand a National Security Review of Urenco

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Dear Rep Ed Whitfield,

I'm deeply concerned by revelations in the recent Sierra magazine article "Dangerous Liaisons" detailing the nuclear-proliferation links between Iran, North Korea, Pakistan, and a proposed centrifuge uranium-enrichment facility in New Mexico. The Nuclear Regulatory Commission and the Department of Energy have failed to conduct sufficient national-security reviews of the plant itself and the foreign-controlled consortium that wants to build it, thereby risking the safety of all Americans. I urge you to demand an immediate State Department investigation to determine what proliferation and other national-security threats are posed by this proposed nuclear facility.

Before allowing the construction on U.S. soil of a centrifuge uranium-enrichment plant by Urenco—a foreign-owned company tied to the world's worst nuclear-secret leaks—Americans have a right to know whether Urenco has plugged those leaks. We also have a right to know whether this plant will threaten global nonproliferation efforts by undermining the U.S. agreement with Russia to buy its poorly secured stocks of highly enriched uranium. How can the Nuclear Regulatory Commission, charged with licensing such facilities, justify approving this license if critical questions like these remain?

Sincerely,

Neal Overfield

1100 Sandefur Dr

Henderson, KY 42420-4416

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LETTER FROM LUIS A. REYES TO CONGRESSMAN ED WHITFIELD, AS WELL AS THE LETTER FROM CONGRESSMAN ED WHITFIELD DATED OCTOBER 13, 2005 have been served upon the following persons by deposit in the U.S. mail, first class, or through NRC internal distribution.

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Washington, DC 20555-0001

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Docket No. 70-3103-ML  
LETTER FROM LUIS A. REYES TO CONGRESSMAN  
ED WHITFIELD, AS WELL AS THE LETTER FROM  
CONGRESSMAN ED WHITFIELD DATED OCTOBER 13, 2005

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Office of the Secretary of the Commission

Dated at Rockville, Maryland,  
this 21<sup>st</sup> day of December 2005