

January 23, 2006

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

NRC STAFF RESPONSE TO MOTION IN LIMINE  
TO EXCLUDE A PORTION OF THE PREFILED REBUTTAL TESTIMONY OF  
ARJUN MAKHIJANI ON COST OF CAPITAL AND COST OF CYLINDER MANAGEMENT

INTRODUCTION

On January 18, 2006, Louisiana Energy Services, L.P. ("LES") filed a motion in limine<sup>1</sup> to exclude a portion of the prefiled rebuttal testimony of Dr. Arjun Makhijani, the expert witness for intervenors Nuclear Information and Resource Service and Public Citizen ("NIRS/PC").<sup>2</sup> For the reasons explained below, the NRC Staff ("Staff") does not oppose the Motion in Limine.

DISCUSSION

On January 11, 2006, the Board issued a Memorandum and Order ruling on a earlier motion in limine filed by LES.<sup>3</sup> In the January 11, 2006 Board Order, the Board struck several portions of the prefiled direct testimony submitted by Dr. Makhijani as expert witness for NIRS/PC, including a portion related to the cost of HF neutralization and CaF<sub>2</sub> disposal, which

---

<sup>1</sup> "Applicant's Motion in Limine to Exclude a Portion of the Prefiled Rebuttal Testimony of Arjun Makhijani on Cost of Capital and Cost of Cylinder Management," (Jan. 11, 2006) ("Motion in Limine").

<sup>2</sup> "Prefiled Rebuttal Testimony of Dr. Arjun Makhijani in Support of NIRS/PC Contentions EC-3/TC-1, EC-5/TC-2, and EC-6/TC-3 Concerning LES's Deconversion Strategy and Cost Estimate," (Jan. 13, 2006) ("NIRS/PC Rebuttal Testimony").

<sup>3</sup> Memorandum and Order (Ruling on In Limine Motion), (Jan. 11, 2006) (unpublished) (January 11, 2006 Board Order")

the Board found unrelated to the cost of capital. Order at 4. In its Motion, LES requested that the following sentence be stricken from NIRS/PC's Rebuttal Testimony because it raises issues irrelevant to the pending hearing: "It does not include CaF<sub>2</sub> disposal and HF neutralization costs." NIRS/PC Rebuttal Testimony at 9. Based on the January 11, 2006 Board Order, the Staff does not object to LES's Motion.

CONCLUSION

Based on the January 11, 2006 Board Order, the Staff does not object to LES's Motion in Limine.

Respectfully submitted,

*/RA/*

Margaret J. Bupp  
Counsel for NRC Staff

Dated at Rockville, Maryland  
this 23<sup>rd</sup> day of January, 2006

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

CERTIFICATE OF SERVICE

I hereby certify that copies of "THE NRC STAFF RESPONSE TO MOTION IN LIMINE TO EXCLUDE A PORTION OF THE PREFILED REBUTTAL TESTIMONY OF ARJUN MAKHIJANI ON COST OF CAPITAL AND COST OF CYLINDER MANAGEMENT" 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 23<sup>rd</sup> day of January, 2006.

Administrative Judge \* \*\*  
G. Paul Bollwerk, III  
Atomic Safety and Licensing Board Panel  
U.S. Nuclear Regulatory Commission  
Mail Stop: T-3F23  
Washington, D.C. 20555  
E-Mail: [gpb@nrc.gov](mailto:gpb@nrc.gov)

Administrative Judge \* \*\*  
Charles Kelber  
Atomic Safety and Licensing Board Panel  
U.S. Nuclear Regulatory Commission  
Mail Stop: T-3F23  
Washington, D.C. 20555  
E-Mail: [cnkelber@aol.com](mailto:cnkelber@aol.com)

Administrative Judge \* \*\*  
Paul Abramson  
Atomic Safety and Licensing Board Panel  
U.S. Nuclear Regulatory Commission  
Mail Stop: T-3F23  
Washington, D.C. 20555  
E-Mail: [pba@nrc.gov](mailto:pba@nrc.gov)

Office of Commission Appellate Adjudication\*  
U.S. Nuclear Regulatory Commission  
Mail Stop: O-16C1  
Washington, D.C. 20555

Office of the Secretary \* \*\*  
ATTN: Rulemakings and Adjudication Staff  
U.S. Nuclear Regulatory Commission  
Mail Stop: O-16C1  
Washington, D.C. 20555  
E-mail: [HEARINGDOCKET@nrc.gov](mailto:HEARINGDOCKET@nrc.gov)

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

James R. Curtiss, Esq. \*\*  
Dave Repka, Esq. \*\*  
Martin O'Neill, Esq. \*\*  
Amy C. Roma, Esq. \*\*  
Tyson R. Smith, Esq. \*\*  
Winston & Strawn  
1700 K Street, N.W.  
Washington, D.C. 20006  
E-mail: [jcurtiss@winston.com](mailto:jcurtiss@winston.com)  
[drepka@winston.com](mailto:drepka@winston.com)  
[moneill@winston.com](mailto:moneill@winston.com)  
[aroma@winston.com](mailto:aroma@winston.com)  
[trsmith@winston.com](mailto:trsmith@winston.com)

Lindsay A. Lovejoy, Jr. \*\*  
Nuclear Information and Resource Service  
1424 16<sup>th</sup> Street, NW.  
Suite 404  
Washington, D.C. 20036  
E-mail: [lindsay@lindsaylovejoy.com](mailto:lindsay@lindsaylovejoy.com)  
[llovejoy@cybermesa.com](mailto:llovejoy@cybermesa.com)

*/RA/*

---

Margaret J. Bupp  
Counsel for NRC Staff