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Title: Louisiana Energy Services, Inc.

Docket Number: 70-3103-ML; ASLBP No.: 04-826-01-ML

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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ATOMIC SAFETY AND LICENSING BOARD

(ASLB)

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TELECONFERENCE

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

Wednesday,
January 25, 2006

The above-entitled matter came on for hearing, pursuant to notice, at 9:30 a.m.

BEFORE:

G. PAUL BOLLWERK, III, Chair
PAUL B. ABRAMSON, Administrative Judge
CHARLES N. KELBER, Administrative Judge

1 APPEARANCES

2 On Behalf of Louisiana Energy Services:

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Also Present:

ATOMIC SAFETY LICENSING BOARD:

BETHANY ENGLE

TIMOTHY JOHNSON

BRIAN SMITH

LOUISIANA ENERGY SERVICES

ROD KRICH

P R O C E E D I N G S

(9:31:42 a.m.)

1
2
3 CHAIR BOLLWERK: Good morning. This is
4 Judge Bollwerk. We're here for a conference to deal
5 with administrative matters dealing with the Louisiana
6 Energy Services proceeding, specifically the mandatory
7 hearing that's been scheduled for March. With me in
8 the room are Judge Kelber and Judge Abramson, as well
9 as law clerk, Bethany Engle. If the parties could
10 please, let's have them identify themselves for the
11 record. Let's start with LES.

12 MR. CURTIS: This is Jim Curtis, here with
13 Dave Repka.

14 MR. LAWRENCE: John Lawrence in
15 Albuquerque.

16 MR. KRICH: Rod Krich.

17 CHAIR BOLLWERK: All right. And the
18 staff, please.

19 MS. CLARK: This is Lisa Clark for the
20 staff, and I am here with Margaret Bupp, Brian Smith,
21 and Timothy Johnson.

22 CHAIR BOLLWERK: All right. Let me just
23 check with the court reporter. Do you need spellings
24 on any of those? Is the court reporter there?

25 COURT REPORTER: Yes, I unplugged the

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1 phone so I don't have any background noise, but I
2 don't need any spellings.

3 CHAIR BOLLWERK: All right. I would ask
4 that everyone try to identify themselves if they can
5 remember to do so when they're speaking. And if the
6 court reporter has any problems in terms of
7 identifying who's speaking, recognizing you're
8 unplugging the phone, but please come back on,
9 interrupt us so we can make sure you got the
10 information you need to have a clear transcript.

11 All right. A couple of things we wanted
12 to do today. I wanted to outline the schedule, give
13 you an indication of some additional issues that the
14 Board has identified that we'd like to make sure are
15 discussed in the pre-filed testimony or the parties
16 are prepared to discuss them at the hearing. And then
17 also get some feedback from you in terms of how you
18 see your presentations going, and timing of the
19 hearing at this point in terms of how you all see it
20 playing out.

21 Let me deal first with the limited
22 appearance sessions. We indicated I think in our
23 prior notice on the mandatory hearing, as well as I
24 believe we mentioned it at the hearings back in
25 October, that we did intend to do some limited

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1 appearance sessions. We'd previously done some out in
2 Eunice, and we felt it would be useful to do a couple
3 of sessions in Hobbs, which is a larger community, to
4 provide the citizens in the area an opportunity once
5 again to address the Board.

6 We've set up two dates at this point. One
7 would be on Sunday, March the 5th, 2006 from three to
8 five p.m., and then on Monday evening, June the 6th
9 from seven to 9 p.m.

10 PARTICIPANT: March the 6th.

11 CHAIR BOLLWERK: What am I doing that for?
12 Okay. March. I've got it written down. Okay. Both
13 of those are in March; Sunday, March the 5th, and
14 Monday, March the 6th, one from three to five, one
15 from seven to nine. This time we'll be using a
16 slightly different location. It's actually near the
17 convention center where we held the proceeding the
18 last time we were in Hobbs, but this time it will be
19 at the New Mexico Junior College in the Moran Building
20 Multi-purpose Room. Basically, if you remember, the
21 Junior College is right next door to the convention
22 center. And we identified this facility when we were
23 looking for space previously when the convention
24 center wasn't available. The Junior College very much
25 wants us to come and use their facility, so we agreed

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1 to go ahead and use a room that they have there that
2 we think will be big enough for the mandatory hearing
3 and for the limited appearance sessions. They'll all
4 be in the same place. So again, Sunday the 5th from
5 three to five, and Monday the 6th from seven to nine.

6 We will be putting out a notice tomorrow
7 in the *Federal Register*, and also issuing to the
8 parties and moving forward with a press release. Our
9 intent would be to try to have people pre-register for
10 both these sessions. And you'll see in the notice
11 that if we find that we're not getting a sufficient
12 number of registrations from one or other of the
13 sessions, that we might well cancel one of those
14 sessions, say a week or ten days before the session is
15 scheduled, if we find there's not enough public
16 interest. And we've obviously let everyone know if
17 that were to occur. But we're hoping, again, by
18 making ourselves available again on a Sunday and a
19 Monday evening, that should give individuals that want
20 to come and address the Board an opportunity to do so.

21 Let me just stop here a second and see if
22 the parties have any comments.

23 MR. CURTIS: None from LES.

24 MS. CLARK: None from the staff.

25 CHAIR BOLLWERK: All right. And at this

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1 point, we're probably just planning on having two
2 tables for parties there, unless we hear that there's
3 some interest from the State or LES - I'm sorry - for
4 NRSPC attending those sessions, maybe we need to
5 interact with them. I don't know that it's necessary,
6 but again, I suppose if the State wanted to appear or
7 to sit at the table, we could provide them one. I
8 think there's enough room there, but it may not be
9 necessary. Well, in terms of limited appearances, I
10 mean those are limited appearances. Right.

11 So that's kind of where we're at on the
12 limited appearances, and we'll try to keep you
13 apprized if there's any need to do any rescheduling,
14 or jiggering, or jigger around with the schedule, or
15 for some reason to cancel something.

16 In terms of the mandatory hearing, at this
17 point it's scheduled to start on Monday, March the
18 6th. Make sure I get the right month. We plan on
19 starting that Monday morning at 9 a.m. Our feeling is
20 that we should have the room already set up, so we
21 should be ready to go at nine, rather than having to
22 be concerned about the usual setup and problems we
23 often have on the first morning of the hearing.

24 Given that the limited appearances are
25 that evening, we would anticipate that we would, if

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1 need be, go until about 4:30 or 5:00, give people
2 enough of a break that they can have dinner and come
3 back if they want to attend the limited appearance
4 session.

5 Again, the location is the New Mexico Junior College,
6 the Moran Building Multi-purpose Room.

7 Two questions that I had for the parties.
8 Given where you're at right now in terms of looking at
9 the record, what you plan on presenting, do you have
10 any thoughts about the duration of the hearing?

11 MS. CLARK: This is the staff. We really
12 were waiting to see if we could get more guidance from
13 the Board as to what areas specifically you wanted us
14 to present testimony on.

15 CHAIR BOLLWERK: Okay.

16 MR. CURTIS: And for LES, I think we
17 would, of course, defer to the staff's view about
18 this, because the focus of this is on the robustness
19 of the staff's review. I think in part, Your Honor,
20 the length of the hearing and what will be required
21 will hinge, in part, as I say, on the extent of the
22 questions that the Board has to satisfy itself as to
23 the robustness of the review. With that qualification
24 and subject to identifying additional questions, I
25 think we would defer that discussion until the end of

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1 this call.

2 CHAIR BOLLWERK: Okay. Fair enough. Let
3 me also ask one question, recognizing again that
4 you're looking at this in large part as Board-driven.
5 Do you all see, given the pre-filed testimony you're
6 thinking about at this point, any kind of sensitive
7 information that you'd be putting in in any way,
8 whether proprietary or otherwise classified, anything
9 like that?

10 MS. CLARK: This is Lisa Clark. Once
11 again, it's going to largely depend on the specific
12 questions that we respond to. We do note, however,
13 that there is a great deal of classified and
14 proprietary information related to the criticality
15 review and security, and physical security, as well.

16 CHAIR BOLLWERK: All right. Anything LES
17 wants to say on that subject?

18 MR. CURTIS: No, I think we would concur
19 with the staff's observation, and Rod Krich may want
20 to address this, as well, but depending upon the areas
21 of inquiry, there is a substantial amount of
22 classified information in some areas.

23 CHAIR BOLLWERK: Okay. All right. Then
24 I think the other question I'm going to ask is
25 probably one you're going to want to defer, as well,

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1 but let me just bring it up. In terms of any kind of
2 audio visual equipment, again it sounds like your
3 presentations as you see them are to address Board
4 questions, so at this point you wouldn't necessarily
5 need any charts, graphs, computer displays, anything
6 like that.

7 MS. CLARK: Again, this is Lisa Clark. We
8 don't anticipate anything now. We may later on as we
9 progress and develop our testimony.

10 CHAIR BOLLWERK: All right.

11 MR. CURTIS: Same with LES.

12 CHAIR BOLLWERK: Okay. Well, again, that
13 would be something important to let us know. I know
14 that New Mexico Junior College has some capabilities
15 in terms of AV, and we can probably work anything out
16 we need to, as long as we have some advance notice of
17 exactly what your needs would be.

18 In that regard, I should also mention that
19 we are probably going to be doing some testing of the
20 Digital Data Management System we put together in
21 terms of our ability to take that into a facility
22 other than our Rockville Hearing Room, so you may see
23 some -- it shouldn't impact anything you all are
24 doing, but you may see some AV equipment there, and
25 that would be us doing testing to see what the

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1 portable capabilities of the system are. So just so
2 you're not surprised if you see some additional panel
3 personnel there and some cameras, and other equipment.

4 All right. Let me then move into sort of
5 the issues that the Board has, additional issues. I
6 guess, previously, Judge Kelber has raised some
7 questions about water vapor intrusion, and also about
8 - these are my labels - reflected unmoderated volume.
9 Let me just see. Judge Kelber, is there anything else
10 you wanted to say on that subject?

11 JUDGE KELBER: Well, I have prepared six
12 specific questions based on review of the Revision I
13 of the MONK 8 verification validation report. And
14 these are more specific than the remarks I made
15 earlier, and let me read them now. And the first
16 three are addressed to the staff. From Table 7.3 of
17 the MONK 8 verification validation report, Revision I,
18 we see that the criticality calculations for IROFs -
19 note to the court reporter that's IROFs - IROFs
20 concerning pipeworks involve H to U ratios from 12 to
21 14. How do you compute the bias allowance for these
22 cases, given the spreads indicated in Figure 6.3 of
23 that report? Is the number for sigma bias in the SER
24 correct? That's question one.

25 Question two - how do you justify

1 acceptance of IROFs or UF6 mixtures with no hydrogen
2 except in the reflector when according to the second
3 full paragraph of Section 6.1, that's page 29 of the
4 report, the H to U ratio varied between 0.102 to 1378
5 in the calculations used for verification.

6 And question number three is, please
7 correlate the IROFs discussed in the SER with the
8 cases listed in Table 7-3 of the report. Are all
9 IROFs adequately represented in the table? The
10 purpose of this is to try and make Chapter 5 of the
11 SER more robust. As it is, that section is not really
12 acceptable.

13 Now there are some additional questions to
14 LES. And these amplify the concerns I discussed
15 earlier. Which cases in Table 7-3 correspond to no
16 hydrogen moderation; that is to say, UF6 only. I have
17 in mind, for example, such cases as the enriched
18 cylinders on the loading platform, calculation which
19 was done absolutely correctly as far as I'm concerned,
20 but we have to have the evidence that that code was,
21 in fact, verified for that application. Which
22 critical experiments were analyzed to validate the
23 code for such cases? This has to be on the record.
24 And in performing such validation work, how were the
25 unresolved residences treated? I don't know that it

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1 makes a big difference, but since it's an open
2 question in such cases, it has to be answered.

3 Now earlier I raised with you the question
4 of the water intrusion and its influence on the
5 aluminum flouride layer on the aluminum pipes, tubes.
6 That question of hydration of layers has come up in
7 another context, by the way, and any information you
8 can give on that will be extremely important.

9 Now I have to tell you that the answers to
10 all of these questions are available in the
11 literature, but they have to be supplied by you; that
12 is to say, staff or LES. We have to get them on the
13 record. I can't supply the answers myself. I could,
14 but the Commission would proceed to ignore them, so
15 there you have it. I've been as explicit as I can.

16 CHAIR BOLLWERK: All right. Let's stop
17 there and if there's any questions. And again, we're
18 having this transcribed, but if the parties found it
19 useful, we could also put these into a memorandum just
20 to spell them out the way Judge Kelber has basically
21 drafted them, so let me see if there's any comments
22 from either of the parties. Staff?

23 MS. CLARK: Yes, this is Lisa Clark.
24 First of all, I think it would be very helpful if we
25 could have the questions in a memorandum. I notice

1 that in the August 12th Board order, there was a date
2 of Friday, January 27th for Board written questions,
3 and I didn't know if that was still anticipated as a
4 date for filing written questions to the staff?

5 CHAIR BOLLWERK: I think at this point
6 we're trying to deal with that without necessarily
7 putting anything further in writing, but obviously, we
8 can - as I just mentioned, we can go ahead and
9 memorialize these if that would be useful to you.

10 MS. CLARK: Yes, thank you. I think that
11 would be very helpful.

12 CHAIR BOLLWERK: What about LES?

13 MR. CURTIS: I think we would, as well,
14 for the purpose of ensuring that we address the
15 precise questions that the Board has, welcome your
16 putting them in writing so that we can be all-
17 encompassing in our answers.

18 CHAIR BOLLWERK: All right.

19 JUDGE KELBER: There is one final remark
20 I make. As you recall earlier, I questioned the fire
21 safety in cases of the electrical cabinets, and it
22 needs an answer, simply because that question has come
23 up repeatedly in reactor cases.

24 CHAIR BOLLWERK: And that would be from
25 either party, I take it.

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1 JUDGE KELBER: Either staff or LES.

2 MR. KRICH: This is Rod Krich. I wonder
3 if I could just ask a clarifying question.

4 CHAIR BOLLWERK: Surely.

5 MR. KRICH: Judge Kelber, you said that
6 Chapter 5 was not acceptable as it's written, or were
7 you --

8 JUDGE KELBER: Chapter 5 of the SER, yes.

9 MR. KRICH: Okay.

10 CHAIR BOLLWERK: All right. Anything
11 else, Judge Kelber, then at this point?

12 JUDGE KELBER: No. But as you recall, in
13 the case electrical fires, fires in cabinets
14 containing electrical equipment, you stated in the SER
15 - it was stated in the SER that there's so little
16 material there that this was really not an issue. That
17 may very well be, but it needs a little bit more
18 justification than just that, because the fires in
19 electrical cabinets have become a significant issue in
20 reactor cases. Anybody who is reading this report and
21 is familiar with these issues will want more.

22 CHAIR BOLLWERK: All right. Judge
23 Abramson, you have anything? If you want, I'll be
24 glad to deal with the one NEPA issue you talked about
25 this morning.

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1 JUDGE ABRAMSON: Yes, you deal with the
2 NEPA issue.

3 CHAIR BOLLWERK: All right.

4 JUDGE ABRAMSON: Let me address the safety
5 side of things, what I'd like to see from the staff.
6 As you know, we've certified up to the Commission how
7 we would deal with the question of our inquiry in the
8 mandatory review process, and our charge is to
9 determine that the sufficiency of the record to
10 support an affirmative decision by the staff, which I,
11 as an attorney, read to mean did the staff have a
12 reasonable basis for its decision, so that's what I'm
13 seeking.

14 In that line then, there are four things
15 I'd like to hear the staff address in-depth. First,
16 I understand we started from a Standard Review Plan
17 for fuel cycle facilities, which was generic for fuel
18 cycle facilities, and not focused on enrichment
19 facilities, so I would like to see from the staff in
20 writing - it doesn't need to be a detailed discussion,
21 but it needs to be a discussion that addresses each
22 point in the Standard Review Plan, advising us how the
23 Standard Review Plan for fuel cycle facilities was
24 adapted to be used for this enrichment facility.
25 That's first thing.

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1 The second thing is I'd like to know and
2 see in writing from the staff which regulatory guides
3 it felt were applicable for this license application,
4 and how they were applied, and why they were chosen.
5 And third, I'd like to see from the staff in writing
6 what areas of the adapted SRP were not covered by reg
7 guides, and what they did about it. And we have some
8 of that in the report that you filed earlier
9 discussing what areas were not covered. But what I'd
10 like to see, I'd like to make sure that that's
11 complete.

12 And finally, the question that was raised
13 in our last hearing is something I'd like the staff
14 and the applicant to discuss among themselves and get
15 something back to us on, and that's this possibility.
16 As we know, it's not clear what the Commission is
17 going to do about the Part 61 requirements for
18 disposition, ultimate disposition of depleted uranium.
19 The decommissioning funding approach that the
20 applicant is taking is laudable; that is, supply a
21 performance bond. But that bond is supplied by the
22 applicant, which is basically a single purpose
23 corporate vehicle with no capital other than what's
24 infused by its shareholders, or members, or owners,
25 depending on what its structure is.

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1 What I'm concerned about, and what I'd
2 like to have addressed is, how does the applicant and
3 the staff intend to deal with the possibility, and I
4 phrase it just that way because nobody can say it's an
5 eventuality, and nobody can say whether it will or
6 will not happen, that the Commission in reviewing its
7 Part 61 regs may decide that depleted uranium is not
8 appropriate for near-surface disposal, in which case
9 the cost of disposition might go up, and there would
10 be an immediate requirement for an increase in the
11 decommissioning funding; and, therefore, an increase
12 in the bond. How would that possibility be dealt with
13 by the parties, and how does the staff intend to deal
14 with it? Those are the four things I need to see
15 covered.

16 CHAIR BOLLWERK: All right. Let me see if
17 there's any questions at this point then from the
18 staff or the applicant about those points.

19 MS. CLARK: Could you give me one moment,
20 please, and I'll check with my staff. This is Lisa
21 Clark. We don't have anything right now.

22 CHAIR BOLLWERK: Again, Judge Abramson has
23 indicated he will be glad to put these questions or
24 inquiries that he has into the memo that we're going
25 to provide, as well.

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1 MS. CLARK: Thank you. We appreciate
2 that.

3 JUDGE KELBER: There is one additional
4 matter which I raised earlier at the hearing, and I
5 want to emphasize it again. You assign a very low
6 likelihood to the probability of significant water
7 intrusion, water vapor intrusion into the enrichment
8 cycle. I would appreciate, as I've said before, a
9 more solid justification of why that likelihood is so
10 low. The statement that it hasn't occurred in 30
11 years doesn't go very far in risk analysis language to
12 justifying a highly unlikely event, so something like
13 a fault tree analysis or the equivalent would be
14 extremely useful. And we discussed that earlier at
15 the hearing.

16 CHAIR BOLLWERK: All right. Any other
17 questions on that, additional clarification? All
18 right. I guess on the NEPA side, particularly, we
19 have a couple of items. One relates, although it's
20 not directly part of Contention EC-7, but something
21 that sort of flows from that in our estimation, and it
22 relates to the purpose and need statement in the EIS;
23 in particular, let me just get the right section here,
24 the analysis that was done or provided on pages 1-4
25 and 1-5 dealing with domestic demand and supply, and

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1 also global supply and demand.

2 During the hearing that we held previously
3 on these issues, again while this wasn't raised
4 necessarily in the course of the contention, there
5 wasn't a significant amount of information that was
6 provided in the environmental report, Section 1.1
7 about demand and need. The staff sections that
8 address this are fairly short, and don't really go
9 into much detail analyzing what LES provided.

10 We also at the hearing found out that the
11 staff witness that was provided, Mr. Nevin I believe
12 his name was, was a contract who didn't really do any
13 drafting on that particular section, at least at that
14 point. In fact, we were told that the contractor who
15 did it had sort of moved on, and we felt that there
16 wasn't really -- the staff analysis to some degree of
17 what LES had provided was somewhat lacking. So we
18 would like to see some additional analysis by the
19 staff with respect to the LES information that was
20 provided in 1.1 of the ER. And Judge Abramson, I
21 think wants to say a few words about that.

22 JUDGE ABRAMSON: Yes, well, perhaps I
23 won't use such soft words. What's in the DEIS is
24 insufficient, what's in the FEIS is insufficient. The
25 approach that the applicant took in Section 1.1 was

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1 quite thorough. We'd like to see from the staff a
2 supplement to the FEIS addressing the same topics that
3 were addressed by the applicant in its section. The
4 staff has to take responsibility for this. They can't
5 just review something from the applicant, and they
6 can't adopt something from the applicant.

7 CHAIR BOLLWERK: All right. Let me see,
8 is there any questions on that point?

9 MR. CURTIS: For LES, just a procedural
10 question, Your Honor. The Board has previously made
11 the observation that in the area of NEPA issues, that
12 consistent with the hydro decision that its referenced
13 in this context, the Board has the ability to
14 supplement the rod through the hearing itself. And
15 I'll defer to the staff on this discussion, as well.
16 The comment about the need to supplement the FEIS,
17 could that, as a legal matter, be accomplished by the
18 offering of additional evidence in the hearing itself?

19 CHAIR BOLLWERK: Yes. In fact, we maybe
20 not have quite presented it or stated that the right
21 way, but that's, in fact, what we would contemplate.
22 I mean, the staff needs to put the evidence in that we
23 then can -- making it clear what they've done, and
24 that we then could adopt as a revision to the EIS or
25 a supplementation.

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1 JUDGE ABRAMSON: However, what the staff
2 has presented so far is insufficient, so we're telling
3 the staff they've got to do something like what the
4 applicant did.

5 CHAIR BOLLWERK: Okay. Anything from the
6 staff on that point?

7 MS. CLARK: No.

8 CHAIR BOLLWERK: All right. An additional
9 matter on the NEPA statement, in Section -- it's on
10 page C-24. This is the Final Environment Impact
11 Statement. It talks about hydraulic rupture of a UF6
12 cylinder in the blending and liquid sampling area. It
13 indicates that that potentially was one of the --
14 probably the most severe accident, at least in the
15 way it's presented in the EIS. It also indicates that
16 there were mitigating actions that could be taken to
17 reduce the consequences of the event.

18 It says, for example, "I guess the Board
19 is interested in knowing, since the uses of -- the
20 plural action, what other mitigating actions were
21 potentially available to deal with that type of
22 accident." All right. Any questions on that
23 particular point?

24 MS. CLARK: No questions on that.

25 CHAIR BOLLWERK: I'm going to put you on

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1 mute one second. All right. This is what we have at
2 this point. Our review is ongoing, and I should
3 mention there may be some other things, although I
4 don't think they're going to be of the potential
5 magnitude of some of the things particularly Judge
6 Abramson raised. What we would contemplate is that
7 the pre-filed testimony filed by the parties would
8 address these specific items, as well as provide any
9 background information that they thought was
10 appropriate in terms of looking toward filing their
11 proposed findings, and providing a basis for the
12 Board's decision on the mandatory hearing in terms of
13 the sorts of findings that we have to make. We'll
14 kind of leave it up to you as to how you want to
15 structure that background information, but again,
16 bearing in mind that we have to write an initial
17 decision on this, and we'll be drawing that in part
18 from whatever proposed findings and conclusions you
19 put in. And those would obviously be based on
20 whatever pre-filed testimony you put in.

21 We haven't provided for rebuttal
22 testimony. Obviously, we don't see it falling in that
23 category. At this point, I would not contemplate that
24 there would be cross examination of staff witnesses by
25 LES, or vice versa, although we could entertain that

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1 question if it became necessary. In part, I would also
2 see if the party had a problem with what the other
3 party said in their pre-filed testimony, they might
4 call one of their witnesses to essentially supplement
5 or rebut it, in effect. But I don't see the hearing
6 necessarily as an opportunity for the staff and the
7 applicant to resolve their differences. I mean, in
8 theory we ought to be presented their positions, and
9 then move forward from there.

10 Any questions about anything I've said up
11 to this point, then?

12 MS. CLARK: None from the staff.

13 MR. CURTIS: None from LES.

14 CHAIR BOLLWERK: All right. Having said
15 all that, what you heard, what now do you think in
16 terms of duration of the hearing? And again, once we
17 see the pre-filed testimony, we may have some other
18 questions, or maybe we'll be questioning some of the
19 witnesses that are put on the stand at the hearing, so
20 obviously, that's going to take some time. And
21 February 27th is the date for it.

22 All right. Anyone there?

23 MS. CLARK: I'm sorry. We're just having
24 some internal discussion here.

25 CHAIR BOLLWERK: Okay. We'll wait. I

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1 just want to make sure. That's fine.

2 MS. CLARK: Okay.

3 CHAIR BOLLWERK: Let me also mention, I've
4 had one request here from a Board Member who's had a
5 schedule change. If it's possible, we would like to
6 get the information by the 24th, rather than the 27th,
7 which is a Friday, the Friday of the week before.

8 MS. CLARK: Hi, this is Lisa Clark. Yes,
9 I think we can accommodate that change. The one
10 question that my staff has had is, they're just
11 concerned at this point with making sure that we
12 schedule the appropriate reviewers to be at the
13 hearing, so their question is whether there might be
14 any other areas of review where you might have
15 additional questions, or do you think that this
16 encompasses all of the specific review areas?

17 CHAIR BOLLWERK: I think this is certainly
18 the major points. Again, we're continuing to look at
19 the volume of information that we were given, but I
20 don't think we contemplate at this point anything
21 else. Having said that, if we do find something,
22 we'll let you know as soon as we know. And if we need
23 to make some accommodation in terms of the schedule,
24 we'll do that.

25 MS. CLARK: Okay. I don't foresee that --

1 I think that the schedule is probably sufficient given
2 the scope of what you've discussed here.

3 CHAIR BOLLWERK: We have three days, so
4 that's a fair amount of time.

5 MS. CLARK: Yes.

6 CHAIR BOLLWERK: And if the pre-filed
7 testimony is thorough, as Judge Abramson has pointed
8 out, I think it's correct, there may be very few Board
9 questions essentially.

10 MR. CURTIS: For LES, I think we would
11 certainly hope to meet the Board's expectations in
12 that regard, and if we do, and understanding that
13 you'd like the first day at 4:30 to prepare for the
14 limited appearances, I would think that, and subject
15 to any further comments that the staff has now, or in
16 the near future, I would think that we could complete
17 this on the next Tuesday, Monday and Tuesday being two
18 days. That should be sufficient if we submit
19 comprehensive answers to the Board's questions.

20 CHAIR BOLLWERK: All right. Anything else
21 the Staff wants to say on that point?

22 MS. CLARK: Not at this time.

23 CHAIR BOLLWERK: Okay. Then if you think
24 it is possible, we'll revise the schedule slightly.
25 We appreciate you allowing us to move the date up to

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1 the 24th rather than the 27th. That would help one of
2 the members here who's had a change in his schedule,
3 and give him an opportunity to look at the information
4 a little earlier. And again, the others parts of the
5 schedule as we laid it out previously, the proposed
6 findings and conclusions flowing from this hearing
7 would be due April 10th. And then a partial initial
8 decision by mid-June, and that's the schedule we're on
9 at this point. That may be revised as matters go
10 forward, but that's what we've got at this point.

11 Let me see then if there's any other
12 comments from any of the Board Members about the
13 mandatory hearing.

14 MS. CLARK: Yes. This is Lisa Clark
15 again. One of the issues that we wanted to bring up
16 was the possibility that some of these areas could get
17 into classified information. I understand that in the
18 criticality area, it is possible that if there are
19 specific questions about IROFs or calculations, we
20 could potentially get into classified or proprietary
21 information. And the staff tells me that if we close
22 the hearing, it would be okay to discuss proprietary
23 information in New Mexico, but if there are any issues
24 involving classified information, we would need to
25 discuss them here at headquarters in a secure room.

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1 JUDGE KELBER: All right. I don't believe
2 - this is Judge Kelber. I don't believe that it will
3 be necessary. I did review the classified information
4 that was sent in earlier. The questions that I have
5 raised can all be answered from the open literature,
6 and I know the answers. But as I've indicated, my
7 answers won't do any good to the Commission.

8 MS. CLARK: Very well.

9 CHAIR BOLLWERK: What we need to see are
10 the staff's answers.

11 JUDGE KELBER: They need to be in the
12 record.

13 CHAIR BOLLWERK: Right. One other
14 procedural question - well, again, keep us apprized of
15 how you see your testimony developing. If that
16 becomes an issue, for proprietary I think in terms of
17 scheduling, if we know that there is proprietary
18 information involved, we would try to put that toward
19 the end of the day, if we can, in terms of arranging
20 whatever issues or the discussion of the issues, so
21 that if we have to close part of it, it would be
22 toward the end of the day, rather than the beginning.
23 In part, that would also depend on what portion or how
24 big that portion of the hearing would be, that
25 particular issue, when we would close it, and how we

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1 would close it. But if the other questions can be
2 answered in several hours, and this is going to take
3 two days to deal with, then we have to deal with it a
4 different way, but hopefully we can put it at the end
5 of the hearing, the possibility of closing the
6 hearing. Even bring part of the hearing back here,
7 that's a possibility. We can certainly do that.

8 One other question procedurally, in terms
9 of the exhibits, I don't know that you all know at
10 this point, but do you see having many exhibits,
11 documentary information that you'd be filing as part
12 of the mandatory hearing?

13 MS. CLARK: This is Lisa Clark. I don't
14 anticipate any exhibits at this point.

15 CHAIR BOLLWERK: All right. What about
16 LES?

17 MR. CURTIS: I think we'd need to evaluate
18 the questions and answer that question definitively.
19 But with the information that's been provided to the
20 Board, I don't think we anticipate any substantial
21 number of exhibits, if any.

22 CHAIR BOLLWERK: All right. When do you
23 think you'd be in a -- could you provide us with an
24 exhibit list if there is going to be one prior to the
25 24th, or would you need to wait until the 24th?

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1 MR. CURTIS: I think probably around that
2 time. The only -- we'll be searching for the answers
3 to Judge Kelber's questions in the reports that he
4 has, and we may offer those up, as well. But we
5 should be able to identify the exhibits on or around
6 the 24th when we submit our pre-filed testimony.

7 CHAIR BOLLWERK: All right. But at this
8 point, you don't contemplate there's going to be many
9 of them.

10 MR. CURTIS: Subject to reviewing the
11 questions that you've asked with Rod Krich and his
12 technical staff, I wouldn't expect there would be
13 many, if any.

14 CHAIR BOLLWERK: Okay. Well, bear in
15 mind, again, we would need an exhibit list then of all
16 of the pre-filed testimony. Hold on one second. I'm
17 going to put you on mute.

18 All right. I think at this point the
19 Board has provided you with the information that we
20 wanted you to have. We will make an effort to put
21 into a memorandum the questions that we posed. This
22 proceeding was being transcribed. I think we had
23 actually had on a seven-day basis, and I may need to
24 go back and look at that. We may need to get it
25 transcribed a little more quickly than that. And I'm

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1 just putting the court reporter on notice we might be
2 amending how quickly we need it. I think we might
3 change to three days, rather than seven.

4 After you've seen those questions, if you
5 have any other concerns or questions you want to raise
6 with the Board, feel free to contact us. It's
7 probably better to have a dialogue on those and make
8 it so that your testimony can be as clear as possible,
9 rather than having ambiguities that go over into the
10 hearing and cause some problems in terms of
11 availability of witnesses or something like that, in
12 terms of who can answer the questions. So if there is
13 any problems or concerns about the questions that we
14 posed, please let us know.

15 At this point let me check - do either of
16 the parties have any questions of the Board in terms
17 of the mandatory hearing?

18 MS. CLARK: The staff doesn't have any
19 questions. We would request, if possible, getting a
20 transcript as soon as possible so that we can get
21 started on answering these questions.

22 CHAIR BOLLWERK: Okay.

23 MS. CLARK: Thank you.

24 CHAIR BOLLWERK: LES, any questions?

25 MR. CURTIS: No. I would say that we had

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1 contacted the court reporter and asked for overnight
2 delivery, and I think that was going to be arranged,
3 so subject to that, we have no further questions.

4 CHAIR BOLLWERK: All right. Again, I will
5 check with our contracting officer who deals with the
6 court reporting service and see where we're at on
7 that, but we'll try to get it expedited, because it's
8 clear you all need it sooner than later, so we'll take
9 care of that.

10 MR. CURTIS: And just to clarify, is it
11 your intent to commit all the questions that we would
12 need to address to writing by January 27th?

13 CHAIR BOLLWERK: Yes, let's see. This is
14 the 25th. We will do our best to do that, yes.

15 MR. CURTIS: That would be helpful, too.

16 CHAIR BOLLWERK: All right. At this point
17 if there's nothing from any of the parties, we
18 appreciate you making yourselves available, and we
19 will, I guess, be seeing you in person on the 13th and
20 14th of next month. Again, if there's any concerns or
21 questions about the mandatory hearing in terms of what
22 you're providing us to the questions that we're
23 posing, please feel free to contact us.

24 At this point, if there's nothing further,
25 we thank you very much, and we stand adjourned.

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MR. CURTIS: Thank you.

(Whereupon, the proceedings went off the
record at 10:12:56 a.m.)

CERTIFICATE

This is to certify that the attached proceedings before the United States Nuclear Regulatory Commission in the matter of:

Name of Proceeding: Louisiana Energy Service, LP

Docket Number: 70-3103-ML

ASLBP No. 04-826-01-ML

Location: teleconference

were held as herein appears, and that this is the original transcript thereof for the file of the United States Nuclear Regulatory Commission taken by me and, thereafter reduced to typewriting by me or under the direction of the court reporting company, and that the transcript is a true and accurate record of the foregoing proceedings.



William Click
Official Reporter
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