

July 21, 2006

Mr. Karl W. Gross  
Licensing Manager  
Louisiana Energy Services  
2600 Virginia Avenue NW, Suite 610  
Washington, DC 20037

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

Dear Mr. Gross:

By an email letter dated May 18, 2006, Mr. James Curtiss, representing Louisiana Energy Services (LES), submitted two affidavits dated May 17, 2006, executed by Mr. Larry W. Brown. These affidavits related to decommissioning funding information provided in LES letters to the U.S. Nuclear Regulatory Commission (NRC) dated December 30, 2005 (NEF-#05-035), and February 7, 2006 (NEF-06-005). In these letters, LES requested that NRC withhold the decommissioning funding information from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR), Part 2, Section 390. The information provided in the December 30, 2005, and February 7, 2006, letters contain 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 two affidavits, dated May 17, 2006, 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, held in confidence and has not been previously publically released.
2. 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.
3. It was transmitted to and received by the U.S. Nuclear Regulatory Commission in confidence.
4. 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.

K. Gross

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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 additional justification is needed to withhold the requested information from public disclosure. Within 30 days, please provide responses to the following issues:

1. As a general rule, information generated by the Federal Government or produced under government contracts cannot be deemed to be proprietary information. Why in this case is the information properly classifiable as proprietary information?
2. If a government agency gives internal deliberative process information to a non-governmental entity, any privilege authorizing withholding of the information from public disclosure is generally waived. Why wasn't any privilege waived here when DOE gave the information to LES?

If you have any questions, please contact Mr. Timothy C. Johnson at 301-415-7299.

Sincerely,

**/RA/**

Joseph G. Giitter, 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  
Matt White/Eunice  
CO'Claire/Ohio  
Joseph Malherek/PC  
Clay Clark/NMED  
Roger Mulder/Texas

Fred Seifts/Jal  
James Curtiss/W&S  
Betty Richman/Tatum  
Lue Ethridge/Lea Cty  
Richard Ratliff/Texas  
Lee Cheney/CNIC  
Ron Curry/NMED  
Patricia Madrid/NMAG

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

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Roger Mulder/Texas		

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 LES website - NO

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OFC	GCFLS		GCFLS		OGC		GCFLS		FCSS	
<b>NAME</b>	TJohnson		LWilliamson				BSmith		JGiitter	
<b>DATE</b>	5/ 18 /06		5/ 19/06		7/ 20 /06		7/ 21 /06		7/ 21 /06	

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