

December 12, 2006

EA-06-230

Mr. Karl Gross  
Licensing Manager  
Louisiana Energy Services, L.P.  
P.O. Box 1789  
Eunice, NM 88231

SUBJECT: ISSUANCE OF ORDER FOR ADDITIONAL SECURITY MEASURES

Dear Mr. Gross:

The U.S. Nuclear Regulatory Commission (NRC) has issued the enclosed Order that modifies the Louisiana Energy Services, L.P. (LES) National Enrichment Facility (NEF) SNM-2010 Materials License to require compliance with the specified Additional Security Measures (ASMs). These ASMs are listed in the Attachment 1 of the enclosed Order (Enclosure 1). In light of the current threat environment, the Commission concludes that the security measures should be embodied in an Order, consistent with the established regulatory framework. This Order does not obviate the need for your facility to implement the protective measures specified under Threat Condition Yellow in the NRC's "Regulatory Issue Summary for Category III Fuel Cycle Facilities on the NRC's Threat Advisory and Protective Measures System," dated September 3, 2002 (Enclosure 2). The parameters used by the NRC to assess the Critical Target Area determination are provided in Attachment 2 of Enclosure 1.

The Commission has determined that the current threat environment requires that the enclosed Order be effective immediately. The requirements will remain in effect pending notification from the Commission that a significant change in the threat environment has occurred, or the Commission determines that other changes are needed.

The enclosed Order calls for response within specified time frames and complete implementation of the requirements of the Order, unless otherwise specified, no later than 6 months prior to facility operation. With respect to the notices and submissions required by Sections IIIB and IIIC of the Order, for any requirement of Attachment 1 of Enclosure 1 that requires an analysis or is contingent on completion of another requirement of Attachment 1, it will be a sufficient response if you state in your twenty-day submission that completion of the requirement is dependent on completion of an analysis or other requirement and the expected date of completion of the analysis or other requirement. Upon completion of such analysis or other requirement, you should promptly submit the results and the actions thereafter proposed with respect to the requirement at issue, as well as the projected date of completion. No extension of time from the twenty-day requirement is necessary for such responses submitted within twenty days.

Document transmitted herewith contains "Safeguards Information." When separated from Attachments, this document is decontrolled.

As a separate matter, if you wish to preserve your right to request a hearing on any requirement contingent upon completion of an analysis or other requirement, a request for an extension of time to request a hearing must be filed within twenty days of the date of this order in accordance with Section IV of the order. Such a request may seek a reasonable period of time to request a hearing beyond the date that the staff informs you whether the actions proposed and completion date for the requirement(s) contingent upon an analysis or other requirement are satisfactory.

Orders contain requirements that licensees or certificate holders must implement. You must respond to this Order by filing a written answer, under oath or affirmation, consenting to the Order, or providing the reasons why you believe the Order should not have been issued. The enclosed Order requires that you respond to the Order within twenty (20) days of receipt.

A copy of the enclosed Order has also been forwarded to the Office of the Federal Register for publication.

Please contact Timothy C. Johnson at (301) 415-7299 to facilitate resolution of any issues related to compliance with the requirements in the enclosed Order, or if you have any other questions.

Sincerely,

Jack R. Strosnider, Director */RA/*  
Office of Nuclear Material Safety  
and Safeguards

Attachments: (1) Order Modifying License and Attachments (ASM)  
(2) Regulatory Issue Summary (RIS)-Category III Fuel Cycle Facilities

Docket No.: 70-3103  
License No.: SNM-2010

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cc w/o SGI and RIS:

William Szymanski/DOE  
Monty Newman/Hobbs  
Peter Miner/USEC  
Glen Hackler/Andrews  
Lue Ethridge/Lea County  
Michael Marriotte/NIRS  
Derrith Watchman-Moore/NM  
Tannis Fox/NMED  
Lindsay Lovejoy/NIRS

FredSeifts/Jal  
James Curtiss/W&S  
Betty Richman/Tatum  
William Floyd/New Mexico  
Richard Ratliff/Texas  
CO'Claire/Ohio  
Joseph Malherek/PC  
Patricia Madrid/NMAG  
John Swailes/LES

Karl Gross/LES  
David Trujillo/Lovington  
Reinhard Hinterreither/LES  
Matt White/Eunice  
Lee Cheney/CNIC  
Roger Mulder/Texas  
Ron Curry/NMED  
Glen Smith/NMAG

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OFFICE	GCFLS	NSIR	GCFLS	SPB	FCSS
NAME	TJohnson	RCaldwell	BSmith	GJanosko	RPierson
DATE	09/ 29 /06	10/ 13 /06	12/ 4 /06	12/ 5 /06	12/ 5 /06
OFFICE	NSIR	OGC	OE	NMSS	
NAME	PHolahan	JGoldberg	CCarpenter	JStrosnider	
DATE	11/ 14 /06	11/ 28 /06	12/ 1 /06	12/ 12 /06	

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of	)	Docket No. 70-3103
	)	License No. SNM-3103
LOUISIANA ENERGY SERVICES, L.P.	)	
(National Enrichment Facility)	)	
	)	EA-06-230

**ORDER MODIFYING LICENSE FOR  
ADDITIONAL SECURITY MEASURES  
(EFFECTIVE IMMEDIATELY)**

I

Louisiana Energy Services (LES or the Licensee) is the holder of Special Nuclear Material License No. SNM-2010 for the National Enrichment Facility (NEF) issued by the U.S. Nuclear Regulatory (NRC or Commission) pursuant to 10 CFR Part 70. The Licensee is authorized by its license to construct and operate a uranium enrichment facility in accordance with the Atomic Energy Act of 1954, as amended, and 10 CFR Parts 30, 40, and 70. The LES license was issued on June 23, 2006, and is due to expire on June 23, 2036.

II

On September 11, 2001, terrorists simultaneously attacked targets in New York, N.Y., and Washington, D.C., utilizing large commercial aircraft as weapons. In response to the attacks and intelligence information subsequently obtained, the Commission issued a number of Safeguards and Threat Advisories to its licensees in order to strengthen licensees' capabilities and readiness to respond to a potential attack on a nuclear facility. The Commission has also communicated with other Federal, State and local government agencies and industry representatives to discuss and evaluate the current threat environment in order to assess the adequacy of security measures at licensed facilities. In addition, the Commission

has been conducting a comprehensive review of its safeguards and security programs and requirements.

As a result of its consideration of current safeguards and security plan requirements, as well as a review of information provided by the intelligence community, the Commission has determined that certain additional measures are required to be implemented by the Licensee as prudent measures to address the current threat environment. Therefore, the Commission is imposing requirements, set forth in the Attachments 1 and 2<sup>1</sup> of this Order, which supplement existing regulatory requirements, to provide the Commission with reasonable assurance that the public health and safety and common defense and security continue to be adequately protected in the current threat environment. These requirements will remain in effect until the Commission determines otherwise.

The Commission recognizes that some of the requirements set forth in Attachments 1 and 2<sup>2</sup> to this Order may already have been initiated by the Licensee on its own. It is also recognized that some measures may need to be tailored to specifically accommodate the specific circumstances and characteristics existing at the licensee's facility to achieve the intended objectives and avoid any unforeseen effect on safe operation.

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<sup>1</sup> Attachments 1 and 2 contain safeguards information and will not be released to the public.

<sup>2</sup> To the extent that specific measures identified in the Attachments to this Order require actions pertaining to the Licensee's possession and use of chemicals, such actions are being directed on the basis of the potential impact of such chemicals on radioactive materials and activities subject to NRC regulation.

In light of the current threat environment, the Commission concludes that the Additional Security Measures must be embodied in an Order, consistent with the established regulatory framework. In order to provide assurance that the Licensee is implementing prudent measures to achieve an adequate level of protection to address the current threat environment, Materials License SNM-2010 shall be modified to include the requirements identified in Attachments 1 and 2 to this Order. In addition, pursuant to 10 CFR §§ 2.202 and 70.81, I find that, in light of the circumstances described above, the public health, safety, and interest, and the common defense and security require that this Order be immediately effective.

### III

Accordingly, pursuant to Sections 53, 62, 63, 81, 147, 149, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR § 2.202 and 10 CFR Parts 30, 40, and 70, IT IS HEREBY ORDERED, **EFFECTIVE IMMEDIATELY**, THAT MATERIAL LICENSE SNM-2010 IS MODIFIED AS FOLLOWS:

- A. The Licensee shall, notwithstanding the provisions of any Commission regulation to the contrary, comply with the requirements described in Attachments 1 and 2 to this Order. The Licensee shall immediately start implementation of the requirements in Attachments 1 and 2 to the Order and shall complete implementation, unless otherwise specified in Attachments 1 and 2 to this order, **no later than 6 months prior to facility operation.**
- B. 1. The Licensee shall, within **twenty (20) days** of the date of this Order, notify the Commission, (1) if it is unable to comply with any of the requirements described in the Attachment, (2) if compliance with any of the requirements is unnecessary in its specific circumstances, or (3) if implementation of any of the requirements would cause the Licensee to be in violation of the provisions of any Commission

regulation or its license. The notification shall provide the Licensee's justification for seeking relief from or variation of any specific requirement.

2. If the Licensee considers that implementation of any of the requirements described in Attachment 1 and 2 to this Order would adversely affect safe operation of its facility, the Licensee must notify the Commission, within **twenty (20) days** of this Order, of the adverse safety impact, the basis for its determination that the requirement has an adverse safety impact, and either a proposal for achieving the same objectives specified in Attachments 1 and 2 in question, or a schedule for modifying the facilities to address the adverse safety condition. If neither approach is appropriate, the Licensee must supplement its response to Condition B1 of this Order to identify the condition as a requirement with which it cannot comply, with attendant justifications as required in Condition B1.
- C.
1. The Licensee shall, within **twenty (20) days** of the date of this Order, submit to the Commission, a schedule for achieving compliance with each requirement described in the Attachment.
  2. The Licensee shall report to the Commission when it has achieved full compliance with the requirements described in the Attachment.
- D. Notwithstanding any provision of the Commission's regulations to the contrary, all measures implemented or actions taken in response to this Order shall be maintained until the Commission determines otherwise.

The Licensee's response to Conditions B.1, B.2, C.1, and C.2, above shall be submitted in accordance with 10 CFR § 70.5. In addition, the Licensee's submittals that contain

Safeguards Information shall be properly marked and handled in accordance with the Order issued on August 28, 2006, requiring a program for protecting Safeguards Information.

The Director, Office of Nuclear Material Safety and Safeguards, may, in writing, relax or rescind any of the above conditions upon demonstration by the Licensee of good cause.

#### IV

In accordance with 10 CFR § 2.202, the Licensee must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within twenty (20) days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time in which to submit an answer or request a hearing must be made in writing to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically set forth the matters of fact and law on which the Licensee or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Nuclear Material Safety and Safeguards, and the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Materials Litigation and Enforcement, at the same address, to the Regional Administrator, NRC Region II, 61 Forsyth Street, SW, Suite 23T85, Atlanta, GA 30303-8931, and to the Licensee if the answer or hearing request is by a person

other than the Licensee. Because of possible disruptions in delivery of mail to United States Government offices, it is requested that answers and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301-415-1101 or by e-mail to [hearingdocket@nrc.gov](mailto:hearingdocket@nrc.gov) and also to the Office of the General Counsel either by means of facsimile transmission to 301-415-3725 or by e-mail to [OGCMailCenter@nrc.gov](mailto:OGCMailCenter@nrc.gov).

If a person other than the Licensee requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR § 2.309.

If a hearing is requested by the Licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR § 2.202(c)(2)(i), the Licensee may, in addition to demanding a hearing, at the time the answer is filed or sooner, move to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section III above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for

requesting a hearing has been approved, the provisions specified in Section III shall be final when the extension expires if a hearing request has not been received. AN ANSWER OR A REQUEST FOR HEARING SHALL NOT STAY THE IMMEDIATE EFFECTIVENESS OF THIS ORDER.

Dated this 20th day of December 2006.

FOR THE NUCLEAR REGULATORY COMMISSION

Jack R. Strosnider, Director */RA/*  
Office of Nuclear Material Safety  
and Safeguards

Attachments: 1. Additional Security Measures for Category III Facilities  
2. Critical Target Area Determination Factors