

January 11, 2010

Mr. Gary Sanford, Director  
Quality and Regulatory Affairs  
Louisiana Energy Services, LLC  
P.O. Box 1789  
Eunice, NM 88231

SUBJECT: REVIEW OF LOUISIANA ENERGY SERVICES DECOMMISSIONING FUNDING  
PLAN (TAC L32508)

Dear Mr. Sanford:

On April 2, 2009, Louisiana Energy Services (LES) transmitted an updated Decommissioning Funding Plan Cost Estimate, along with final copies of Financial Assurance Instruments for the National Enrichment Facility (NEF). On September 14, 2009, LES responded to a request for additional information (RAI) dated July 16, 2009.

We reviewed the April 2 and September 14 submittals and have determined that the proposed decommissioning funding plan meets the requirements of 10 CFR 40.36 and 70.25 and is consistent with the NRC guidance in NUREG-1757, Volume 3, "Consolidated NMSS Decommissioning Guidance: Financial Assurance, Recordkeeping, and Timeliness." 10 CFR 70.25 (e) states "The decommissioning funding plan must contain a certification by the licensee that financial assurance for decommissioning has been provided in the amount of the cost estimate for decommissioning and a signed original of the financial instrument obtained to satisfy the requirements of paragraph (f) of this section."

In our review, we evaluated the proposed financial assurance instruments, and found they are consistent with the recommended wording in NUREG-1757, Volume 3. LES submitted a proposed Amendment Number 1 to the Standby Trust dated January 12, 2009, previously approved by NRC and a proposed Surety Bond, in the amount of \$150 Million (M), which replaces the Standby Letter of Credit in the amount of \$8 M previously approved by NRC. The original financial assurance instrument was for the decommissioning of the Centrifuge Assembly Building and other buildings where licensed material will be used. The increase in the proposed Surety Bond reflects adding the decommissioning of Separations Building Module (SBM) 1001, which it is estimated will cost \$141 M to decommission. The amount of the surety bond, \$150 M, is equal to the decommissioning cost estimate for Phase I and Phase II and for tailings disposal costs, which are required to be covered at this time as stipulated in this license. The NRC finds that there is adequate financial assurance. The NRC staff therefore finds that the financial assurance is adequate. It is noted that the new Trustee is Bank of America. The former Trustee was LaSalle Bank. This new arrangement is satisfactory to the NRC.

Three comments are provided regarding the September 14, 2009 submittal:

- 1) The tables submitted as part of Enclosure 1 to the RAI response are at the requested level of detail. The "external sources" of information concerning rates and other expenses are identified and the text of the response notes that transport and waste disposal costs are based on 2009 rates from U.S Ecology. Changes in the costs of these activities appear to be consistent with the updated information. However, the

footnotes to Tables 2 and 12 should be amended to include the same references to the date and source of the information. Amend the Tables, but resubmittal is not required.

- 2) The proposed revisions to Section 17 of the Standby Trust Agreement (STA) would make the force majeure provision of the existing STA mutual by extending its protections to LES in addition to the Trustee as it currently reads. The force majeure provision would thus provide that neither party would be liable for "acts of God" and other events beyond the affected party's reasonable control, including "actions of public authorities." LES confirms that, under this force majeure provision and pursuant to Section 14 of the STA, the parties would be required to comply with all applicable orders, requests, and instructions issued by the NRC.
- 3) You provided an estimate for dispositioning 5,000,000 kg of depleted uranium byproduct anticipated for the first 3 years of operation. In 2007, DOE had provided you a maximum dispositioning cost estimate of \$5.76 per kg. You used this information as a starting point for a 2009 estimate in the submittal dated April 2, 2009, by escalating the cost per kg by 2.5% for 2008 and then 2009. In addition, you included the application of a 25% contingency factor, making the cost \$7.56 per kg. On September 11, 2009, DOE provided you a 2009 cost estimate and the maximum cost was \$5.21 per kg, and includes conversion, transportation and disposal, and decontamination and decommissioning. LES conservatively estimated the cost for dispositioning. The NRC therefore finds the financial assurance for dispositioning uranium byproduct disposal to be adequate. This complies with condition 16b of your license, in that the estimate shall be updated to current year dollars and shall be no less than the DOE estimate.

In accordance with condition 16.b. of your license, you will provide final executed copies of the reviewed financial assurance instruments to the NRC at least 21 days before the receipt of feed material. It is noted that full funding for decontamination and decommissioning of SBM 1001 and other plant areas where licensed material will be used is provided in the Decommissioning Funding Plan and cost estimate update as a part of Phase 2, as described in Section 10.2.2 of the Safety Analysis Report. Also, funding for the disposition of depleted uranium tails for the first three years of operation is also included.

An environmental assessment for this action is not required, since this action is categorically excluded under 10 CFR 51.22(c)(10).

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room).

This terminates our efforts on this licensing action and this TAC has been closed. If you have any questions, please contact Mr. Ty Naquin at (301) 492-3187 or at [Tyrone.Naquin@nrc.gov](mailto:Tyrone.Naquin@nrc.gov).

Sincerely,

**/RA/**

Michael D. Tschiltz, Deputy Director  
Fuel Facility Licensing Directorate  
Division of Fuel Cycle Safety  
and Safeguards  
Office of Nuclear Material Safety  
and Safeguards

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

cc:

William Szymanski/DOE  
Gary Don Reagan/Hobbs  
Cindy Padilla/NMED  
Glen Hackler/Andrews  
Gary Schubert/Lea County  
Michael Marriotte/NIRS  
Jon Goldstein/NMED  
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Betty Rickman/Tatum  
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Sincerely,

/RA/

Michael D. Tschiltz, Deputy Director  
Fuel Facility Licensing Directorate  
Division of Fuel Cycle Safety  
and Safeguards  
Office of Nuclear Material Safety  
and Safeguards

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