

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

G. Paul Bollwerk, III, Chairman
Dr. Kaye D. Lathrop
Dr. Craig M. White

In the Matter of

AREVA ENRICHMENT SERVICES, LLC

(Eagle Rock Enrichment Facility)

Docket No. 70-7015-ML

ASLBP No. 10-899-02-ML-BD01

December 3, 2010

MEMORANDUM AND ORDER

(Additional Publicly-Available Board Questions Regarding Safety-Related Matters)

In two October 29, 2010 issuances, the Licensing Board provided a series of publicly-available and nonpublicly-available questions to the NRC staff and applicant AREVA Enrichment Services, LLC, (AES) regarding the staff's safety evaluation report (SER) or the AES safety analysis report (SAR). See Licensing Board Memorandum and Order (Initial Publicly-Available Board Questions Regarding Safety-Related Matters and Associated Administrative Directives) (Oct. 29, 2010) at 1 (unpublished) [hereinafter Board Initial Safety Questions Order]. On November 19, 2010, the staff and AREVA filed answers to these questions.¹ After reviewing these answers, the Board has identified several additional questions for the parties, one of which again concerns matters associated with the nonpublicly available

¹ See NRC Staff Response to the Licensing Board's Initial Publicly-Available Questions Regarding Safety Matters (Nov. 19, 2010) [hereinafter Staff Initial Publicly-Available Questions Response]; NRC Staff Response to the Licensing Board's Initial Nonpublicly Available Questions Regarding Safety-Related Matters (Nov. 19, 2010); Applicant's Response to Publicly-Available Questions on the [SER] (Nov. 19, 2010) [AES Initial Publicly-Available Questions Response]; Applicant's Response to Nonpublicly-Available Questions on the [SER] (Nov. 19, 2010).

portions of the staff's SER or the AES safety analysis. That question is included in a separate order that is being issued this date for nonpublic service and incorporation into the protective order file portion of the docket for this proceeding.

The staff and AES responses to the Board's public and nonpublic questions being issued this date should be appropriately filed on or before Monday, December 13, 2010.² As was outlined in the Board's May 19, 2010 initial scheduling order, "[t]he answers shall, for each question, identify the responding subject matter expert(s) or individual(s), and be submitted in exhibit form, under oath, so that they are suitable for receipt into evidence without the necessity of the personal appearance of each expert or individual." Licensing Board Initial Scheduling Order (May 19, 2010) at 3-4 (unpublished).

In this regard, in its previous order the Board indicated that although all of the questions could be answered by both the staff and AES, after consultation only one party could respond to a particular question so long as least one party responded to each question. See Board Initial Safety Questions Order at 2 n.*. The same would be true here relative to Publicly-Available Question 28 below. Moreover, if either the staff or AES now wishes to provide a response to the answer of the other party to any of the October 29 initial questions, it should do so by Monday, December 13, 2010, provided however, that with respect to the following questions, a party response shall be provided by that date as follows:

- A. Publicly-Available Question 5 -- AES should indicate whether it has quantified the probabilities involved in its probability argument and, if so, explain how it has done so.

² If AES or the staff believes that any of the public questions involves an answer that requires filing as nonpublicly available information, AES or the staff should include that answer in its nonpublic filing, along with an explanation/justification as to why a nonpublic submission is necessary and, assuming it does not do so, why it is not practicable to file publicly a redacted version of the answer in conjunction with its other publicly-filed answers.

- B. Publicly-Available Question 7 -- AES should provide its position about whether liability insurance covers all hazardous chemicals produced from licensed materials, e.g., hydrogen fluoride (HF).

In addition, the Board requests the specified supplemental responses to the following questions:

- A. Supplemental AES Response to Publicly-Available Question 8 -- In response to Publicly-Available Question 8, AES indicated that section 2.3.2 of the EREF Fundamental Nuclear Material Control Plan (FNMCP) for Gaseous UF₆ Sampling incorrectly states that feed material is sampled once per feed cylinder prior to feeding the material into the enrichment system to confirm feed assay and compliance with American Society for Testing and Materials (ASTM) C787. See AES Initial Publicly-Available Questions Response at 5-6. Further, AES committed to correcting this error under the AES corrective action program. How will the FNMCP be corrected? And how will AES's corrective action program ensure correction of the error?
- B. Supplemental AES Response to Publicly-Available Question 15 -- A typical individual with no more than a Bachelor of Science degree and four years of nuclear experience most likely has no applicable education or experience with the concepts or practice of nuclear criticality safety. That leaves one year of direct experience to qualify to be a candidate to manage nuclear criticality safety at the Eagle Rock Enrichment Facility (EREF). Why is more experience as a nuclear criticality safety engineer not required, particularly in light of the staff's response to Publicly-Available Question 15 indicating Louisiana Energy Services and Babcock & Wilcox think this is so. See Staff Initial Publicly-Available Questions Response at 23-24. Put another way, how does a manager know the scope of work the nuclear criticality safety team is supposed to do, let alone know how to do it correctly, without prior experience in performing similar activities?
- C. Supplemental AES Response Regarding Publicly-Available Question 17 -- Please discuss whether, in the absence of the Production Supervisor, the Radiation Production or Chemistry Manager has precedence in an accident situation.

Finally, the Board requests that the parties respond to the following additional publicly-available question:

Publicly-Available Question 28 -- The staff response to Publicly-Available Question 6 noted that some locality-specific factors at the EREF Idaho site will differ from conditions in Europe and speculated that these differences could cause centrifuges at the EREF to perform differently from centrifuge machines in Europe. See Staff Initial Publicly-Available Questions Response at 14. Along this line, but taking a broader view, please list the locality-specific factors that could adversely affect safety at the proposed

EREF, but are generally not considered to be potential threats to safety in Europe. Also, please briefly discuss the process used to identify locality-specific potential safety hazards to the proposed EREF and to assure that all factors were identified.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

G. Paul Bollwerk, III
CHAIRMAN

Rockville, Maryland

December 3, 2010

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **MEMORANDUM AND ORDER (Additional Publicly-Available Board Questions Regarding Safety-Related Matters)** dated December 3, 2010, have been served upon the following persons by Electronic Information Exchange.

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AREVA ENRICHMENT SERVICES, LLC (Eagle Rock Enrichment Facility) – 70-7015-ML
MEMORANDUM AND ORDER (Additional Publicly-Available Board Questions Regarding Safety-Related Matters)

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[Original signed by Nancy Greathead]
Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 3rd day of December 2010