

14635

RELATED CORRESPONDENCE
RELATED CORRESPONDENCE

JAN 28 1994

DOCKETED
USNRC

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

'94 JAN 31 P3:59

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF SECRETARY
FOR THE BOARD
WASHINGTON, D.C.

In the Matter of)	
)	
LOUISIANA ENERGY SERVICES,)	Docket No. 70-3070-ML
L.P.)	
)	
(Claiborne Enrichment Center))	

NRC STAFF'S SUPPLEMENTAL RESPONSE TO
INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS
PERTAINING TO SAFETY PHASE CONTENTIONS FILED BY
CITIZENS AGAINST NUCLEAR TRASH

The Staff of the Nuclear Regulatory Commission ("Staff") hereby supplements its response to the "Interrogatories and Request for Production of Documents Filed By Citizens Against Nuclear Trash and Directed To The Executive Director For Operations and The NRC Staff Pertaining to All Contentions," filed May 14, 1992 ("CANT's May 14th Interrogatories").

On July 2, 1992, the Staff filed "NRC Staff's Response To Interrogatories And Request For Production Of Documents Pertaining To All Contentions Filed By Citizens Against Nuclear Trash" in which the Staff noted that it had not yet reached conclusions or identified witnesses who might be expected to testify regarding the matters addressed in CANT's contentions and that it would seasonably supplement certain answers as required by the Commission's regulations in 10 C.F.R. §§ 2.720(h)(2)(iv) and 2.740(e).

On January 25, 1994, the Staff issued the U.S. Nuclear Regulatory Commission, "Safety

9402080183 940128
PDR ADOCK 07003070
C PDR

DS07

Evaluation Report for the Claiborne Enrichment Center, Homer, Louisiana," NUREG-1491, January 1994 ("SER"), which documents the Staff's review and evaluation regarding certain safety issues, including issues contained in Contentions B, H, I (Parts 8-11), L, M, and Q, which are to be addressed in the safety phase of this proceeding.¹ This response supplements the Staff's answers to those CANT interrogatories regarding Contentions B, H, I (Parts 8-11), L, M, and Q.

In its July 2, 1992, response, the Staff also noted that it would respond to CANT's discovery request in the interest of expediting discovery, but that the Staff is not required to respond to CANT's discovery request absent prior findings by the Board that such response should be required, pursuant to 10 C.F.R. § 2.720(h)(2)(ii) (in the case of the interrogatories)² and 10 C.F.R. § 2.744 (d) (in the case of the request for production of documents)³. By supplementing its July 2, 1992, response, the Staff does not waive its

¹ The Licensing Board in its May 7, 1992, Memorandum and Order (Memorializing Prehearing Conference), ASLBP No. 91-641-02-ML, adopted a prehearing schedule proposed by the parties which is based on separate hearing schedules for safety and environmental issues. The safety phase is to encompass Contentions B, H, I (Parts 8-11), L, M, and Q. Memorandum and Order at 2.

² 10 C.F.R. § 2.720(h)(2)(ii) provides that "[u]pon a finding by the presiding officer that answers to the interrogatories are necessary to a proper decision in the proceeding and that answers to the interrogatories are not reasonably obtainable from any other source, the presiding officer may require that the staff answer the interrogatories."

³ 10 C.F.R. § 2.744(c) provides that if the Executive Director for Operations ("EDO") objects to producing a record or document, the requesting party must make written application to the presiding officer to compel production, and the document is then to be reviewed *in camera* by the presiding officer. 10 C.F.R. § 2.744(d) provides that the presiding officer must
(continued...)

right to require that the appropriate procedure be followed and that the required findings be made, pursuant to 10 C.F.R. § 2.720(h)(2)(ii) and 10 C.F.R. § 2.744(c) and (d), before responding to any future discovery requests.

I. OBJECTIONS AND PROTECTIVE ORDER

General Objections:

The Staff objects to CANT's May 14th Interrogatories to the extent that they call for the disclosure of litigation strategy, attorney-work product, privileged attorney-client materials, and other privileged materials.

Protective Order

On July 2, 1992, the Staff requested the issuance of a protective order directing that information in response to CANT's May 14th Interrogatories that would (1) require the disclosure of home addresses and telephone numbers of NRC employees or consultants, (2) seek or involve the disclosure of Restricted Data, National Security Information, Safeguards Information, proprietary information as defined in 10 C.F.R. § 2.790(d)(1) or other information, records or documents exempt from disclosure under the Atomic Energy Act and the Commission's regulations, or (3) require a response by or on behalf

³(...continued)

determine that (1) the document or record is relevant, (2) its production is not exempt from disclosure under § 2.790, or if exempt, that its disclosure is necessary to a proper decision in the proceeding, and (3) the information contained in the record or document is not reasonably obtainable elsewhere, before ordering the EDO to produce the document.

of "the NRC" or persons who are "Nuclear Regulatory Commission (NRC) personnel," but who are not members of the NRC staff, need not be supplied. The Licensing Board granted the Staff's motion for protective order pursuant to 10 C.F.R. 740(c), on September 18, 1992.⁴

II. SUPPLEMENTAL ANSWERS TO INTERROGATORIES

Interrogatory 1:

State the name, last known home and business address, last known home and business phone number, and last known place of employment and job title of each person who was consulted and/or who supplied information for the answers to these interrogatories and this request for production of documents, and specifically note for which interrogatories and which requests for production each such person was consulted and/or supplied information.

If the information or opinions of anyone who was consulted in connection with your response to this discovery request differs from your written answers to this discovery request, please describe in detail the differing information or opinions, and indicate why such differing information or opinions are not your official position as expressed in your written answers to this discovery request.

Answer to Interrogatory 1:

The Staff objects to this interrogatory to the extent that it seeks the home addresses and telephone numbers of Staff employees. Without waiving the foregoing objection, the Staff states:

⁴ "Memorandum And Order (Ruling On NRC Staff Motion For Protective Order)," September 18, 1992.

Dr. Lidia A. Roché, Division of Fuel Cycle Safety and Safeguards, Enrichment Branch, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555; (301) 504-2695. (Interrogatories 2-7 and 12-16).

Interrogatory 2:

Indicate whether the NRC agrees with the statements made in CANT's Contention B and the bases which have been admitted in support of Contention B, and if not, please describe in detail the nature and extent of your disagreement.

Answer to Interrogatory 2:

The Staff objects to this interrogatory to the extent that it requires a response by or on behalf of the "NRC" or persons who are not members of the NRC staff. Without waiving the foregoing objection, the Staff states that the NRC staff does not agree with CANT's Contention B, "Decommissioning Plan Deficiencies," as supported by bases one, four, and five. As more fully discussed in chapter 15 of the SER, the Staff finds the Applicant's proposed general procedures and estimated funding required to decontaminate and decommission the facility and site adequate.

Interrogatory 3:

Identify all NRC staff personnel and contractors who may testify as witnesses and/or affiants at hearings and summary disposition proceedings regarding Contention B and the bases which have been admitted in support of Contention B, and describe the substance of their testimony and affidavits.

Answer to Interrogatory 3:

The Staff objects to this interrogatory to the extent that it seeks the home addresses and telephone numbers of Staff employees or contractors. Without waiving the foregoing

objection, the Staff states that the following witness may be expected to testify on the matters addressed in Contention B.

Yawar H. Faraz, Division of Fuel Cycle Safety and Safeguards, Enrichment Branch, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555; (301) 504-2669.

The substance of the NRC staff's testimony can be found in the Safety Evaluation Report, as noted in the response to the previous interrogatory. The witness' prefiled testimony and affidavits with respect to Contention B will be filed in accordance with the schedule established by the Board in its May 7, 1992, Memorandum and Order (Memorializing Prehearing Conference), ASLBP No. 91-641-02-ML. The Staff will seasonably supplement this answer as required by the Commission's regulations in 10 C.F.R. §§ 2.720(h)(2)(iv) and 2.740(e).

Interrogatory 4:

Indicate whether the NRC agrees with the statements made in CANT's contention H and the bases which have been admitted in support of contention H, and if not, please describe in detail the nature and extent of your disagreement.

Answer to Interrogatory 4:

The Staff objects to this interrogatory to the extent that it requires a response by or on behalf of the "NRC" or persons who are not members of the NRC staff. Without waiving the foregoing objection, the Staff states that the NRC staff does not agree with CANT's Contention H, "Emergency Planning Deficiencies," as supported by bases 2 through 7, 10, 16, 17, 20, and 23. As more fully discussed in chapter 10 of the SER,

the Staff finds the Applicant's Emergency Plan demonstrates that an acceptable program has been established for responding to the radiological hazards of an accident involving licensed material and to any associated chemical hazards directly incident thereto.

Interrogatory 5:

Identify all NRC staff personnel and contractors who may testify as witnesses and/or affiants at hearings and summary disposition proceedings regarding Contention H and the bases which have been admitted in support of Contention H, and describe the substance of their testimony and affidavits.

Answer to Interrogatory 5:

The Staff objects to this interrogatory to the extent that it seeks the home addresses and telephone numbers of Staff employees or contractors. Without waiving the foregoing objection, the Staff states that the following witness may be expected to testify on the matters addressed in Contention H.

Kevin M. Ramsey, Division of Industrial and Medical Safety, Operations Branch, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555; (301) 504-2534.

The substance of the NRC staff's testimony can be found in the Safety Evaluation Report, as noted in the response to the previous interrogatory. The witness' prefiled testimony and affidavits with respect to Contention H will be filed in accordance with the schedule established by the Board in its May 7, 1992, Memorandum and Order (Memorializing Prehearing Conference), ASLBP No. 91-641-02-ML. The Staff will

seasonably supplement this answer as required by the Commission's regulations in 10 C.F.R. §§ 2.720(h)(2)(iv) and 2.740(e).

Interrogatory 6:

Indicate whether the NRC agrees with the statements made in CANT's Contention I and the bases which have been admitted in support Contention I, and if not, please describe in detail the nature and extent of your disagreement.

Answer to Interrogatory 6:

The Staff objects to this interrogatory to the extent that it requires a response by or on behalf of the "NRC" or persons who are not members of the NRC staff. Without waiving the foregoing objection, the Staff states that the NRC staff does not agree with CANT's Contention I, "Incomplete License Application," as to the four specific parts (8-11) dealing with the Safety Analysis Report. As more fully discussed in the SER, the Staff finds that the Applicant's descriptions, specifications, and analyses contained in its application and responses to NRC requests for additional information provide an adequate basis for an NRC review of the license application.

Interrogatory 7:

Identify all NRC staff personnel and contractors who may testify as witnesses and/or affiants at hearings and summary disposition proceedings regarding Contention I and the bases which have been admitted in support of Contention I, and describe the substance of their testimony and affidavits.

Answer to Interrogatory 7:

The Staff objects to this interrogatory to the extent that it seeks the home addresses and telephone numbers of Staff employees or contractors. Without waiving the foregoing objection, the Staff states that the following witness may be expected to testify on the matters addressed in Contention I.

Dr. Lidia A. Roché, Division of Fuel Cycle Safety and Safeguards, Enrichment Branch, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555; (301) 504-2695.

The substance of the NRC staff's testimony can be found in the Safety Evaluation Report, as noted in the response to the previous interrogatory. The witness' prefiled testimony and affidavits with respect to Contention I will be filed in accordance with the schedule established by the Board in its May 7, 1992, Memorandum and Order (Memorializing Prehearing Conference), ASLBP No. 91-641-02-ML. The Staff will seasonably supplement this answer as required by the Commission's regulations in 10 C.F.R. §§ 2.720(h)(2)(iv) and 2.740(e).

Interrogatory 12:

Indicate whether the NRC agrees with the statements made in CANT's Contention L and the bases which have been admitted in support of Contention L, and if not, please describe in detail the nature and extent of your disagreement.

Answer to Interrogatory 12:

The Staff objects to this interrogatory to the extent that it requires a response by or on behalf of the "NRC" or persons who are not members of the NRC staff. The Staff

further objects to this interrogatory to the extent that it seeks or would necessitate the disclosure of Restricted Data, National Security Information, Safeguards Information, proprietary information as defined in 10 C.F.R. § 790(d)(1), or any other information exempt from disclosure under the provisions of the Atomic Energy Act and the Commission's Regulations. Without waiving the foregoing objections, the Staff states that the NRC staff does not agree with CANT's Contention L, "Online Enrichment Monitoring." As more fully discussed in chapter 14 of the SER, the Staff finds that the Applicant's fundamental nuclear material control plan, when implemented with compliance verified by the NRC staff, meets the requirements of 10 C.F.R. § 74.33.

Interrogatory 13:

Identify all NRC staff personnel and contractors who may testify as witnesses and/or affiants at hearings and summary disposition proceedings regarding Contention L and the bases which have been admitted in support of Contention L, and describe the substance of their testimony and affidavits.

Answer to Interrogatory 13:

The Staff objects to this interrogatory to the extent that it seeks the home addresses and telephone numbers of Staff employees or contractors. The Staff further objects to this interrogatory to the extent that it seeks or would necessitate the disclosure of Restricted Data, National Security Information, Safeguards Information, proprietary information as defined in 10 C.F.R. § 790(d)(i), or any other information exempt from disclosure under the provisions of the Atomic Energy Act and the Commission's

Regulations. Without waiving the foregoing objections, the Staff states that the following witness may be expected to testify on the matters addressed in Contention L.

Donald R. Joy, Division of Fuel Cycle Safety and Safeguards, Licensing Branch, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555; (301) 504-2352.

The substance of the NRC staff's testimony can be found in the Safety Evaluation Report, as noted in the response to the previous interrogatory. The witness' prefiled testimony and affidavits with respect to Contention I will be filed in accordance with the schedule established by the Board in its May 7, 1992, Memorandum and Order (Memorializing Prehearing Conference), ASLBP No. 91-641-02-ML. The Staff will seasonably supplement this answer as required by the Commission's regulations in 10 C.F.R. §§ 2.720(h)(2)(iv) and 2.740(e).

Interrogatory 14:

Indicate whether the NRC agrees with the statements made in CANT's Contention M and the bases which have been admitted in support of Contention M, and if not, please describe in detail the nature and extent of your disagreement.

Answer to Interrogatory 14:

The Staff objects to this interrogatory to the extent that it requires a response by or on behalf of the "NRC" or persons who are not members of the NRC staff. The Staff further objects to this interrogatory to the extent that it seeks or would necessitate the disclosure of Restricted Data, National Security Information, Safeguards Information, proprietary information as defined in 10 C.F.R. § 790(d)(1), or any other information

exempt from disclosure under the provisions of the Atomic Energy Act and the Commission's Regulations. Without waiving the foregoing objections, the Staff states that the NRC staff does not agree with CANT's Contention M, "Monitoring of Sample Ports, Process Valves, and Flanges." As more fully discussed in chapter 14 of the SER, the Staff finds that the Applicant's fundamental nuclear material control plan, when implemented with compliance verified by the NRC staff, meets the requirements of 10 C.F.R. § 74.33.

Interrogatory 15:

Identify all NRC staff personnel and contractors who may testify as witnesses and/or affiants at hearings and summary disposition proceedings regarding Contention M and the bases which have been admitted in support of Contention M, and describe the substance of their testimony and affidavits.

Answer to Interrogatory 15:

The Staff objects to this interrogatory to the extent that it seeks the home addresses and telephone numbers of Staff employees or contractors. The Staff further objects to this interrogatory to the extent that it seeks or would necessitate the disclosure of Restricted Data, National Security Information, Safeguards Information, proprietary information as defined in 10 C.F.R. § 790(d)(i), or any other information exempt from disclosure under the provisions of the Atomic Energy Act and the Commission's Regulations. Without waiving the foregoing objections, the Staff states that the following witness may be expected to testify on the matters addressed in Contention M.

Donald R. Joy, Division of Fuel Cycle Safety and Safeguards, Licensing Branch, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555; (301) 504-2352.

The substance of the NRC staff's testimony can be found in the Safety Evaluation Report, as noted in the response to the previous interrogatory. The witness' prefiled testimony and affidavits with respect to Contention I will be filed in accordance with the schedule established by the Board in its May 7, 1992, Memorandum and Order (Memorializing Prehearing Conference), ASLBP No. 91-641-02-ML. The Staff will seasonably supplement this answer as required by the Commission's regulations in 10 C.F.R. §§ 2.720(h)(2)(iv) and 2.740(e).

Interrogatory 16:

Indicate whether the NRC agrees with the statements made in CANT's Contention Q and the bases which have been admitted in support of Contention Q, and if not, please describe in detail the nature and extent of your disagreement.

Answer to Interrogatory 16:

The Staff objects to this interrogatory to the extent that it requires a response by or on behalf of the "NRC" or persons who are not members of the NRC staff. Without waiving the foregoing objection, the Staff states that the NRC staff does not agree with CANT's Contention Q, "Financial Qualifications." As more fully discussed in chapter 13 of the SER, the Staff believes that the Applicant is financially qualified to build and operate the facility.

Interrogatory 17:

Identify all NRC staff personnel and contractors who may testify as witnesses and/or affiants at hearings and summary disposition proceedings regarding Contention Q and the bases which have been admitted in support of Contention Q, and describe the substance of their testimony and affidavits.

Answer to Interrogatory 17:

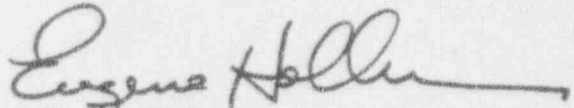
The Staff objects to this interrogatory to the extent that it seeks the home addresses and telephone numbers of Staff employees or contractors. Without waiving the foregoing objection, the Staff states that the following witness may be expected to testify on the matters addressed in Contention Q.

Robert S. Wood, Program Management, Policy Development, and Analysis Staff, Inspection and Licensing Policy Branch, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555; (301) 504-1255.

The substance of the NRC staff's testimony can be found in the Safety Evaluation Report, as noted in the response to the previous interrogatory. The witness' prefiled testimony and affidavits with respect to Contention I will be filed in accordance with the schedule established by the Board in its May 7, 1992, Memorandum and Order (Memorializing Prehearing Conference), ASLBP No. 91-641-02-ML. The Staff will

seasonably supplement this answer as required by the Commission's regulations in 10 C.F.R. §§ 2.720(h)(2)(iv) and 2.740(e).

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Eugene Holler", with a long horizontal flourish extending to the right.

Eugene Holler
Counsel for NRC Staff

Dated at Rockville, Maryland
this 28th day of January, 1994.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
)
LOUISIANA ENERGY SERVICES, L.P.) Docket No. 70-3070-M/L
)
(Claiborne Enrichment Center))
)

AFFIDAVIT

I, Lidia A. Roché, being duly sworn, do hereby state as follows:

1. I am employed by the U.S. Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards. My business address and telephone number are:

Dr. Lidia A. Roché
Division of Fuel Cycle Safety and Safeguards
Office of Nuclear Material Safety and Safeguards
U. S. Nuclear Regulatory Commission
Washington, D.C. 20555

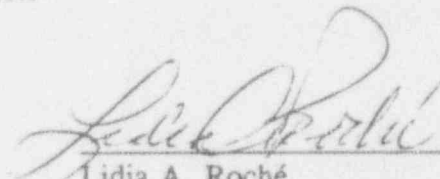
(301) 504-2695

2. I am currently assigned to serve as Project Manager, Enrichment Branch, Division of Fuel Cycle Safety and Safeguards, Office of Material Safety and Safeguards for the NRC Staff's review and processing of the application to construct and operate the

Claiborne Enrichment Center, submitted by Louisiana Energy Services, L.P., to be located at Homer, Louisiana.


3. I have provided the information which forms the basis for the answers to Interrogatories 2-7 and 12-16 contained in the attached "NRC Staff's Supplemental Response to Interrogatories and Request for Production of Documents Pertaining to All Safety Phase Contentions Filed By Citizens Against Nuclear Trash," dated January 28, 1994.

4. The information contained in the attached interrogatory answers is true and correct to the best of my knowledge and belief.



Lidia A. Roché

Sworn and subscribed to before
me this 27 day of January, 1994.



Notary Public

My commission expires: 2/1/95

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

RECEIVED
JAN 31 1994

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD 94 JAN 31 P3:59

In the Matter of)
)
LOUISIANA ENERGY SERVICES, L.P.) Docket No. 70-3070-ML
)
(Claiborne Enrichment Center))

OFFICE OF SECRETARY
DUCHEMIN & LEWIS
WASHINGTON

CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF'S SUPPLEMENTAL RESPONSE TO INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS PERTAINING TO SAFETY PHASE CONTENTIONS FILED BY CITIZENS AGAINST NUCLEAR TRASH" in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class, or as indicated by an asterisk through deposit in the Nuclear Regulatory Commission's internal mail system, this 31st day of January, 1994:

Morton B. Margulies, Esq., Chairman*
Administrative Judge
Atomic Safety and Licensing Board
Mail Stop: EW-439
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Richard F. Cole*
Administrative Judge
Atomic Safety and Licensing Board
Mail Stop: EW-439
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Frederick J. Shon*
Administrative Judge
Atomic Safety and Licensing Board
Mail Stop: EW-439
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Mr. Ronald Wascom
Deputy Assistant Secretary
Office of Air Quality &
Radiation Protection
P.O. Box 82135
Baton Rouge, LA 70884-2135

J. Michael McGarry, III, Esq.
Winston & Strawn
1400 L Street, N.W.
Washington, DC 20005

Peter LeRoy
Duke Engineer Services, Inc.
P.O. Box 1004
Charlotte, NC 28201-1004

Dr. W. Howard Arnold
Louisiana Energy Services, L.P.
2600 Virginia Avenue, N.W.
Suite 608
Washington, DC 20037

Office of the Commission Appellate
Adjudication*
Mail Stop: 16-G-15 OWFN
U.S. Nuclear Regulatory Commission
Washington, DC 20555

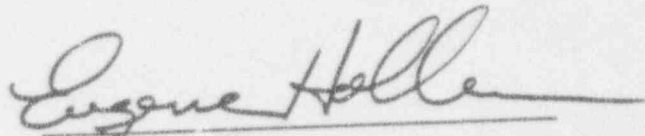
Atomic Safety and Licensing Board
Panel*
Mail Stop: EW-439
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Diane Curran, Esq.
c/o IEER
6935 Laurel Avenue, Suite 204
Takoma Park, MD 20912

Marcus A. Rowden, Esq.
Fried, Frank, Harris
Shriver & Jacobsen
1101 Pennsylvania Avenue, N.W.
Suite 900 South
Washington, DC 20004

Office of the Secretary*
ATTN: Docketing and Service
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Natalie M. Walker, Esq.
Sierra Club Legal Defense Fund
400 Magazine Street, Ste. 401
New Orleans, LA 70130



Eugene J. Holler
Counsel for NRC Staff