

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
)
(Claiborne Enrichment Center))
_____)

REPLY OF CITIZENS AGAINST NUCLEAR TRASH
TO LES'S AND THE NRC STAFF'S ANSWER TO THE
"FIRST SUPPLEMENT TO CONTENTIONS ON THE CONSTRUCTION
PERMIT/OPERATING LICENSE APPLICATION FOR
THE CLAIBORNE ENRICHMENT CENTER"

I.

INTRODUCTION

On January 18, 1994, Intervenor, Citizens Against Nuclear Trash ("CANT") filed its "First Supplement to Contentions on the Construction Permit/Operating License Application for the Claiborne Enrichment Center" ("Supplemental Contentions"), containing CANT's Supplemental Contentions T, U, and W.

On January 31, 1994, Applicant, Louisiana Energy Services ("LES") filed its answer to CANT's Supplemental Contentions. On February 4, 1994 the NRC Staff filed its response to the Supplemental Contentions.

CANT hereby withdraws Contentions T and U, but maintains that Contention W should be admitted, and thus takes this opportunity to respond briefly to the positions taken by LES and the NRC Staff with respect to Contention W.

II.

LEGAL ARGUMENT

In Contention W, CANT raises five important points regarding environmental impacts and costs of tails disposal that have not been properly addressed in the Draft EIS:

-- The Draft EIS is inadequate because it fails to address the impacts, costs, and benefits of ultimate disposal of DUF6 tails, or the cumulative and generic impacts of DUF6 tails disposal;

-- The Draft EIS contains no information whatsoever regarding the nature and environmental impacts of the process for converting DUF6 to U308, or the impacts of permanently disposing of these U308 tails;

-- It is impossible to determine from the Draft EIS the basis for the NRC's estimate that tails disposal will cost \$12.6 million/year;¹

-- The NRC has failed to evaluate the cumulative and generic impacts of adding to the huge (and growing) national inventory of DUF6 tails, for which the U.S. government has yet to identify an acceptable means of disposal; and

-- The NRC, in consultation with DOE should be required to evaluate these impacts before LES can be licensed to produce more DUF6.

Both LES and the NRC Staff agree that Contention W is an appropriate comment on the Draft EIS. See LES Answer to CANT's Supplemental Contentions at 35, and the NRC Staff's Response to CANT's Supplemental Contentions at 15.

However, LES argues that raising these issues in the form of a contention is premature, and argues that CANT should file

¹ The NRC Staff takes the position that CANT's Contention B, which deals with Decommissioning Plan Deficiencies, already encompasses this issue. See NRC Staff's Response to CANT's Supplemental Contentions at 17.

Contention W only if the issues raised in Contention W are not adequately addressed in the Final EIS. This argument flies in the face of the regulations (and the caselaw arising thereunder) pertaining to contentions, which clearly mandate that contentions be filed at the earliest possible date.

The institutional unavailability of the Draft EIS prevented CANT from filing Contention W until now, but now that this impediment has been removed, it is timely for CANT to file this contention. "Once the institutional unavailability of a licensing-related document is removed, intervenors must promptly formulate their contentions." Public Service Company of New Hampshire (Seabrook Station, Units 1 and 2), LBP-89-4, 29 NRC 62, 70 (1989). Accordingly, CANT's Contention is not premature, and should be considered now, not after issuance of the Final EIS.

The NRC Staff hinges its opposition to admitting Contention W on 10 C.F.R. § 2.714(b)(iii), arguing that information in the Draft EIS does not differ significantly from the information in the Environmental Report ("ER"). CANT disagrees.

The Draft EIS does differ significantly from the ER. The Draft EIS at 2-31 (in the section entitled "Disposition of Tails") clearly states that the "disposition of the depleted UF6 (DUF6) generated at CEC will involve the conversion of DUF6 to triuranium octoxide (U3O8) prior to disposal." In contrast, to this day, the section of the ER entitled "Disposal" (§ 4.2.7) makes no reference to the fact that the disposal of DUF6 will entail conversion to U3O8, only vaguely noting that the DUF6 will be converted to a

"stable, non-volatile uranium compound." Although, as the NRC Staff points out, there is a reference to the conversion of DUF6 to U308 elsewhere in the ER, it is buried in a separate section entitled "Decommissioning Costs." ER at § 4.4-14.

Thus, the Draft EIS is the first document that apprised CANT in a tails "disposal" section that the disposal method selected for the tails generated at the CEC would involve conversion of DUF6 to U308. CANT cannot be expected to hunt through the application for hidden evidence that LES has chosen a specific tails disposition strategy, when LES has not stated that choice in the section of the application where its plans for tails disposal are supposed to be identified. To penalize CANT for LES's failure to amend its Environmental Report in a complete and clear manner, as the NRC Staff suggests, would be extremely unfair, and would effectively shift the burden of proof in this case from LES to CANT.

Moreover, it should be noted that Contention W is not merely limited to the issue of the financial costs of tails disposal. Thus, contrary to the NRC's argument, it is not completely embraced in the scope of admitted issues in Contention B. Rather, Contention W also addresses the NRC's (and LES's) general failure to discuss the numerous environmental impacts of converting DUF6 to U308 and providing for long-term storage of the U308. Thus, CANT seeks a ruling from the Board on these aspects of Contention W, as well as a determination that the cost issue is already admitted.

In short, CANT's Contention W should be admitted because it is timely, and because, under any reasonable standard, information

contained in the ER regarding disposal of tails does differ significantly from the information in the ER regarding disposal of tails.

Respectfully submitted,

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February 11th, 1994.

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