



capacity" for "need for power," or is this done by analogy? Please cite any authority relied upon.

ANSWER TO INTERROGATORY NO. J.4-2-c:

See CANT's February 11, 1994 answer to interrogatory no. J.4-2 and J.4-2-a, as well as CANT's comments on the Draft Environmental Impact Statement ("Draft EIS") at 24-7.

INTERROGATORY NO. J.4-2-d:

Do you consider the need for enrichment capacity the only valid need to support a benefit in the cost-benefit analysis under NEPA? If not, what other valid needs would be a benefit in a NEPA cost-benefit analysis?

ANSWER TO INTERROGATORY NO. J.4-2-d:

If the proposed CEC facility is not needed for the production of enriched uranium, any other benefits (such as economic benefits) would be too incidental and insignificant to justify licensing of the facility under a NEPA cost-benefit analysis. And in the case of the proposed CEC facility, as set forth in CANT's comments on the Draft EIS at 15-20, even the alleged economic benefits of the CEC are highly questionable, at best; as the NRC noted, the plant "may not prove to be economical." Draft EIS at 4-75.

INTERROGATORY NO. J.4-2-f:

In Contention J you state that "[o]n the whole, the costs of the project far outweigh the benefits of the proposed action." What bases, facts and analyses were used to reach this conclusion? Please address the specific costs you rely upon. Also, please explain how these costs outweigh the benefits listed in ER sections 8.1 and 8.2, as amended on July 31, 1992, and the LES information letter on need for the facility sent to the NRC on April 30, 1992.

INTERROGATORY NO. J.9-4, J.9-4-a and J.9-4-b:

Basis 9 states that "[t]he ER does not demonstrate any attempts to avoid or mitigate . . . the disparate impact of the proposed plant on this minority community." To support this statement you cite a report relating toxic waste sites to community socio-economic and racial characteristics ("Toxic Wastes and Race in the United States"). This report analyzes commercial hazardous waste facilities and uncontrolled toxic waste sites. The report defines a commercial hazardous waste facility as any facility which accepts hazardous wastes (as defined by the EPA) from a third party for a fee or other remuneration; and defines uncontrolled toxic waste sites as closed and abandoned sites on the EPA's list of sites which pose a present and potential threat to human health and the environment.

Explain the relevance of the statistics in this report to the CEC, which is not a type of facility analyzed by the report; and

Explain the basis for the statement that the facility has a disparate impact on the community, i.e., disparate with respect to what?

ANSWER TO INTERROGATORY NO. J.9-4, J.9-4-a and J.9-4-b:

As documented in "Toxic Wastes and Race in the United States" (the "UCC Report"), the majority of commercial hazardous waste facilities and uncontrolled toxic waste sites in this country are located in poor, minority communities. The proposed CEC facility's closest neighbors will all be poor, minority citizens, following the pattern identified in the UCC Report.

The proposed CEC site is analogous to a commercial hazardous waste site because creation and storage of a toxic waste product is a planned activity at the CEC facility. And the proposed CEC site is analogous to an uncontrolled toxic waste dump because, given the poor economic prospects of LES, it is more than possible that the site will ultimately be abandoned and uncontrolled. In short, the activities at the proposed CEC site pose a threat of pollution and

contamination, as would a hazardous waste dump or an uncontrolled toxic waste site.

Numerous studies since the UCC Report have documented that African-Americans in the southern states have borne a disparate burden in the siting of hazardous waste landfills and incinerators, lead smelters, petrochemical plants, and a host of other noxious facilities. The selection of the CEC site in Claiborne Parish conforms to this pattern.

African-Americans comprised 12 percent of the U.S. population and 30.8 percent of Louisiana's population in 1990. The racial composition of Claiborne Parish was 53.43 white, 46.09 African-American, 0.16 percent American Indian, 0.07 percent Asian, 0.23 Hispanic, and 0.01 percent "other" in 1990. Because of out-migration of whites since the 1990 census, African-Americans make up nearly half of Claiborne Parish's population in 1994.

The CEC facility is proposed for a state where the percentage of African-Americans is two and a half time greater than the percentage of African-Americans in the nation, a parish where the percentage of African-Americans is 4 time greater than the percentage of African-Americans in the nation, and two communities, Center Springs and Forest Grove, where the percentage of African-Americans is virtually 100%.

Further, Claiborne Parish is located in one of the poorest regions of the United States. And Claiborne Parish itself is poorer than the surrounding parishes. According to the Draft EIS, the parish per capita earnings was only "about \$5,800 per year

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ANSWER TO INTERROGATORY NO. J.4-2-c:

See CANT's February 11, 1994 answer to interrogatory no. J.4-2 and J.4-2-a, as well as CANT's comments on the Draft Environmental Impact Statement ("Draft EIS") at 24-7.

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Do you consider the need for enrichment capacity the only valid need to support a benefit in the cost-benefit analysis under NEPA? If not, what other valid needs would be a benefit in a NEPA cost-benefit analysis?

ANSWER TO INTERROGATORY NO. J.4-2-d:

If the proposed CEC facility is not needed for the production of enriched uranium, any other benefits (such as economic benefits) would be too incidental and insignificant to justify licensing of the facility under a NEPA cost-benefit analysis. And in the case of the proposed CEC facility, as set forth in CANT's comments on the Draft EIS at 15-20, even the alleged economic benefits of the CEC are highly questionable, at best; as the NRC noted, the plant "may not prove to be economical." Draft EIS at 4-75.

INTERROGATORY NO. J.4-2-f:

In Contention J you state that "[o]n the whole, the costs of the project far outweigh the benefits of the proposed action." What bases, facts and analyses were used to reach this conclusion? Please address the specific costs you rely upon. Also, please explain how these costs outweigh the benefits listed in ER sections 8.1 and 8.2, as amended on July 31, 1992, and the LES information letter on need for the facility sent to the NRC on April 30, 1992.



ANSWER TO INTERROGATORY NO. J.4-2-f:

See CANT's February 11, 1994 answer to interrogatory no. J.4-2 and J.4-2-a, as well as CANT's comments on the Draft EIS at 15-20 and 24-28.

Contention J, Basis 6

INTERROGATORY NO. J.6-1 and J.6-1-a:

In light of the July 31, 1992, changes to sections 3.4, 3.5, 4.4 and 6.4.14 of the SAR, and sections 3.3, 4.1, 4.2, 6.1 and 6.2 of the ER, which provide additional information on the effects of facility construction and operation on the surface and underground drinking water supply: Are you willing to withdraw Basis 6?

ANSWER TO INTERROGATORY NO. J.6-1 and J.6-1-a:

No.

INTERROGATORY NO. J.6-1-b:

If you are not willing to withdraw Basis 6 of Contention J, provide specific descriptions of the information, or types or [sic] information, related to the evaluation of the potential impacts of the proposed project on the ground and surface water, and the manner in which it will be kept free from contamination that you believe Applicant has omitted from the SAR and ER. Include reference to regulations, regulatory guidance or other authorities requiring or recommending that this information be provided.

ANSWER TO INTERROGATORY NO. J.6-1-b:

See CANT's comments on the Draft EIS at 15; 16 f.9; 17; and 22-3.

Contention J, Basis 9

INTERROGATORY NO. J.9-1:

In light of the July 31, 1992, changes to sections 8.1 and 8.2 of the SAR, and Applicant's additional information submitted March 30, 1992, on the economic and sociological impacts of the CEC on Forest Grove and Center Springs, are you willing to withdraw Basis 9?

ANSWER TO INTERROGATORY NO. J.9-1:

No.

INTERROGATORY NO. J.9-4, J.9-4-a and J.9-4-b:

Basis 9 states that "[t]he ER does not demonstrate any attempts to avoid or mitigate . . . the disparate impact of the proposed plant on this minority community." To support this statement you cite a report relating toxic waste sites to community socio-economic and racial characteristics ("Toxic Wastes and Race in the United States"). This report analyzes commercial hazardous waste facilities and uncontrolled toxic waste sites. The report defines a commercial hazardous waste facility as any facility which accepts hazardous wastes (as defined by the EPA) from a third party for a fee or other remuneration; and defines uncontrolled toxic waste sites as closed and abandoned sites on the EPA's list of sites which pose a present and potential threat to human health and the environment.

Explain the relevance of the statistics in this report to the CEC, which is not a type of facility analyzed by the report; and

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contamination, as would a hazardous waste dump or an uncontrolled toxic waste site.

Numerous studies since the UCC Report have documented that African-Americans in the southern states have borne a disparate burden in the siting of hazardous waste landfills and incinerators, lead smelters, petrochemical plants, and a host of other noxious facilities. The selection of the CEC site in Claiborne Parish conforms to this pattern.

African-Americans comprised 12 percent of the U.S. population and 30.8 percent of Louisiana's population in 1990. The racial composition of Claiborne Parish was 53.43 white, 46.09 African-American, 0.16 percent American Indian, 0.07 percent Asian, 0.23 Hispanic, and 0.01 percent "other" in 1990. Because of out-migration of whites since the 1990 census, African-Americans make up nearly half of Claiborne Parish's population in 1994.

The CEC facility is proposed for a state where the percentage of African-Americans is two and a half time greater than the percentage of African-Americans in the nation, a parish where the percentage of African-Americans is 4 time greater than the percentage of African-Americans in the nation, and two communities, Center Springs and Forest Grove, where the percentage of African-Americans is virtually 100%.

Further, Claiborne Parish is located in one of the poorest regions of the United States. And Claiborne Parish itself is poorer than the surrounding parishes. According to the Draft EIS, the parish per capita earnings was only "about \$5,800 per year

. . . compared to a national average of almost \$12,800." (Draft EIS at 3--108).

The Draft EIS reports that the CEC would produce about 17 percent of the estimated U.S. requirement for enrichment services in the year 2000. (Draft EIS at 1--5). Too often low-income and people of color communities have borne a disproportionate burden for the nation's energy and environmental policies (costs tend to be regressive), while whites and those communities that fall at the upper end of the income spectrum receive greater benefits (such as jobs, increased tax base, new construction, and residential amenities).

Clearly, existing Claiborne Parish residents will receive fewer economic benefits (such as high paying jobs and home construction -- the Draft EIS identifies Claiborne Parish residents as the ones "likely to fill the lower end of the skill and pay scale jobs" and occupy housing units where there already is "an over supply of lower quality and older homes" (Draft EIS at 3--103)) than those who relocate to the area or commute to the proposed facility. Moreover, CEC staff is expected to buy homes "outside of the parish area." (Draft EIS at 4--33). Thus, greater housing benefits are likely to accrue to commuters, not existing residents. In short, and as discussed more fully in CANT's comments on the Draft EIS, Center Springs and Forest Grove would be the clear "losers," disproportionately burdened with the negatives of this proposed project.

No Action Alternative, Contention K

Contention:

The ER violates NEPA because it does not contain an adequate discussion of alternatives to the proposed action.

Interrogatories and Requests:

INTERROGATORY NO. K-1:

In light of the July 23, 1992, LES letter providing additional information on the no action alternative, are you willing to withdraw Contention K?

ANSWER TO INTERROGATORY NO. K-1:

No.

INTERROGATORY NO. K-2 and INTERROGATORY NO. K-2-a:

If you are not willing to withdraw Contention K, answer the following.

The basis for Contention K alleges that the ER fails to satisfy 10 C.F.R. Section 51.54 (which applies [sic] nuclear power reactor manufacturers) because it does not satisfy the no-action alternative. Assuming that 10 C.F.R. Section 51.45 is the intended reference, no requirement appears to exist for Applicant to submit information on a no action alternative, although the Commission is to provide a discussion of the no action alternative in its Environmental Impact Statement under 10 C.F.R. Part 51, Subpart A, Appendix A. In this regard, provide specific descriptions of the information, or types or [sic] information, related to the no action alternative analysis that you believe Applicant has omitted from the ER and its supplementary communications to the NRC (i.e., the July 23, 1992, letter). Include reference to regulations, regulatory guidance or other authorities requiring or recommending that this information be provided by Applicant.

ANSWER TO INTERROGATORY NO. K-2 and K-2-a:

See CANT's February 11, 1994 answer to interrogatory no. J.4-2 and J.4-2-a, as well as CANT's comments on the Draft EIS at 24-28.

Financial Qualification, Contention Q

Contention:

LES has not demonstrated that it is financially qualified to build and operate the CEC.

Interrogatories and Requests:

INTERROGATORY NO. Q-1:

Please review the May 1, 1992, LES Letter to the NRC Staff regarding financial qualifications, and advise whether you are willing to withdraw Contention Q.

ANSWER TO INTERROGATORY NO. Q-1:

No.

INTERROGATORY NO. Q-2:

If you are not willing to withdraw Contention Q in light of Applicant's recent submittal, please provide specific descriptions of the information, or types or [sic] information, related to financial qualification that you believe Applicant has omitted from its financial disclosures. Include reference to regulations, regulatory guidance or other authorities requiring or recommending that this information be provided.

ANSWER TO INTERROGATORY NO. Q-2:

10 C.F.R. § 70.32(b)(2) provides that the NRC "may incorporate in any license such additional conditions and requirements . . . as it deems appropriate or necessary in order to . . . [p]rotect health or to minimize danger to life or property." As expressed in various of its contentions, CANT is concerned with potential health threats and danger to life and property from the proposed CEC facility. It is of the utmost importance to CANT, whose members reside next door to the proposed site for the CEC facility, that this facility not be constructed if there are inadequate funds to ensure its safe construction, operation, and successful decontamination and decommissioning. Accordingly, it is only



prudent that LES be required to demonstrate its financial ability to deal with these important matters.

10 C.F.R. Part 50, which governs "domestic licensing of production and utilization facilities" -- which in many significant respects are akin to the proposed CEC facility -- is instructive as guidance on this issue. 10 C.F.R. § 50.40(b) provides that the Nuclear Regulatory Commission may issue a license only after determining, among other things, that the applicant is "financially qualified" to engage in the proposed activit[y] . . . ."

Accordingly, every applicant under Part 50 is required to submit such financial information. And with respect to a newly formed company such as LES, more detailed data and supporting documentation than usual is required. 10 C.F.R. § 50 Appendix C.

The May 1, 1992 letter from LES to the NRC Staff, and the version of the attachments thereto which were sent to CANT do not demonstrate that LES is financially qualified to build and operate the CEC. In fact, because substantial key portions of the attachments have been censored under the rubric of "proprietary information," these materials are almost worthless in terms of establishing LES's financial qualifications. Furthermore, much of the financial data attached to the May 1, 1992 letter (such as balance sheets and auditors' reports) are clearly outdated, as they are current only through December of 1990.

Further, CANT has submitted evidence that major partners in the LES project do not intend to continue with the project past the pre-construction phase, thereby throwing into serious doubt the

ability of the remaining partners to secure adequate funding to construct, or, more importantly, to operate the CEC plant. LES has not countered this serious doubt.<sup>1</sup> And the NRC's own Draft EIS admits that the economic viability of the project is questionable, noting that the facility "may not prove to be economical." Draft EIS at 4-75.

As set forth below, (and organized under captions referencing the relevant portions of the attachments to the LES letter of May 1, 1992), a review of even the censored financial information furnished to CANT demonstrates many unanswered questions about LES's financial qualifications.

QUESTION 2 OF ATTACHMENT B

A) It is not specified if the "new infusions by limited partners" have irrevocably been committed to.

B) There is no evidence of the ability and willingness of the remaining limited partners to "provide the necessary equity and appropriate debt" if some limited partners elect not to invest additional capital at the time of construction.

C) There is no evidence that "sufficient long term SWU sales agreements with affiliated and non-affiliated utilities" have actually been obtained.

D) There is no adequate discussion of current market conditions (at the time of plant start-up and beyond) or conditions

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<sup>1</sup> LES only vaguely suggests that the "limited partners who are then affiliated with the Urenco consortium" would provide necessary financing and debt if a number of conditions are satisfied (see attachment B to LES's May 1, 1992 letter regarding financial qualifications at 1) -- but no meaningful evidence that these partners are actually capable of providing such financing is provided.

reasonably projected for the life of the plant, all of which clearly would impact the financial health of LES. In such a discussion, the following factors should be considered: the shrinking market for SWU services, as evidenced in the recent past by the permanent shutdowns of the Yankee Rowe, San Onofre-1 and Trojan reactors; the projection by Shearson Lehman Brothers that as many as 25 nuclear reactors will be shut down by the year 2000; the effect of President Clinton's campaign pronouncement that "no new nuclear reactors should be built" pending adequate proof of economic viability and progress on radioactive waste storage; the effect of President Clinton's proposed slashing of the nuclear power research and development budget, and his statement in the State of the Union address that unnecessary programs "such as nuclear power research and development will be eliminated" from the federal budget; and the effects of the NRC's stalled license renewal plan for LES's potential market over the next 30 years.

E) LES has stated that "one-third of the plant's output has been reserved for the utility affiliates of the founding general and limited partners: Duke Power, Northern States Power, and Louisiana Power & Light." However, there is no evidence to support LES's suggestion that these utilities will purchase SWUs from LES -- and in fact, at present only one of these affiliates has expressed any potential interest in such purchase.

F) There is no adequate discussion of how LES plans to obtain sufficient debt financing arrangements if the limited partners back out of this project -- as many of them have committed to their local regulatory bodies that they will.

QUESTION 3 OF ATTACHMENT B

A) LES apparently plans to "employ less [than 100%] leverage in the construction phase to reduce capitalized interest," but fails to indicate projected figures, or any basis for believing that LES can pay for less than 100% leverage, given LES' balance sheet which indicates cash reserves of only \$24,067 (12/31/90) and deferred start-up costs of only \$16,799,993 (12/31/90). Current cash and start-up cost balances should be indicated. There should be a discussion of how LES plans to leverage assets of less than 5% of construction costs, and cash of less than 0.01% of such costs into cash sufficient to pay for a potentially billion-dollar facility.

B) There is no adequate discussion of how LES, without all of the limited partners, "would provide the necessary equity and appropriate debt support for such initial investment." Financial data should be provided indicating capability, willingness, and commitment to do so.

QUESTION 4 OF ATTACHMENT B

LES says that because Urenco is operating uranium enrichment plants in Europe, the CEC will not be first-of-a-kind. LES premises most of its discussion of "contingency allowances" on this "fact". However, it is LES, not Urenco, that is applying for a license from the NRC. If the CEC is to be a Urenco plant, then LES should acknowledge this, and revise its license application. Furthermore, other LES application documents indicate that the centrifuges proposed for the LES plant will differ from those in use by Urenco in Europe. In short, there is no reason in the application to assume that this is not a first-of-a-kind plant; at

the very least, it is certainly a first-of-a-kind plant for the United States.

QUESTION 5 OF ATTACHMENT B

A) LES indicates that "construction and term debt will be raised from a consortium of major, international project lending banks familiar to the LES partners," but does not identify these lending banks.

B) There is no indication of the projected date for financial closing.

C) There is no actual evidence (such as letters of credit or other proof) that LES and its partners have "sufficiently strong relationships with major lending institutions" to obtain financing for this project.

SECTION 1 OF ATTACHMENT D

There is no adequate discussion of the extent to which anticipated nuclear plant license renewals enter into LES' financial calculations, or the effect on LES's financial health if 25% of the nation's nuclear plants close by the year 2000 -- as projected by major Wall Street financial analysts.

SECTION 3 OF ATTACHMENT D

There is no adequate discussion of whether (and currently it seems impossible) LES can meet its target operational date of 1996 to take advantage of its alleged "window of opportunity" -- i.e., when existing long-term SWU contracts with the DOE expire (between 1996-2002) -- or the effect which additional years of delay before the CEC is operational will have on the financial health of LES.

#### SECTION 4 OF ATTACHMENT D

A) There is no adequate discussion of the recent contract between Russia and the United States which requires the United States to buy weapons grade enriched uranium (at a very cheap price) from the former U.S.S.R. Pursuant to the terms of the contract, the United States will downgrade the uranium to a level of enrichment required by American domestic nuclear reactors. This Russian uranium will entirely displace the projected output from the proposed LES facility.

B) There is no discussion of recent reports that an agreement similar to the contract between the United States and Russia is also being considered with South Africa. Such an agreement would further glut the market for enriched uranium.

C) There is no discussion of the fact that the United States itself already has on hand an abundance of weapons grade uranium which it intends to downgrade for sale to nuclear power plants.

D) LES states that it "expects that a major fraction of its output will displace production from diffusion plants which when built were not required to meet current NRC and EPA standards and regulations", but fails to explain how the enacted version of the 1992 National Energy Security Act will now affect such a scenario.

#### SECTION 5 OF ATTACHMENT D

A) There is no adequate discussion of the effect that the federal government's purchase from Russia of large quantities of highly-enriched uranium for conversion into commercial reactor fuel will have on LES's competitive outlook and finances.



B) There is no adequate discussion of how nuclear power holds a cost-competitive advantage over other sources of electricity generation.

ATTACHMENTS M AND N

Attachment M at numbered paragraph 3 of the "Notes to Financial Statements" for Urenco Investments, Inc., and attachment N at section 1 (p. 2) of the "Notes to Financial Statements" for Louisiana Energy Services, L.P are predicated on the assumption that a license for the project would be granted in 1993. This did not happen, and thus throws the financial viability of the proposed CEC facility into further doubt.

Respectfully submitted,

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By: Nathalie M. Walker  
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March 11, 1994.



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Atomic Safety and Licensing Board Panel  
U.S. Nuclear Regulatory Commission  
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Respectfully submitted,

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March 11, 1994.