

13367

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

DOCKETED  
USNRC

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD '92 NOV 19 P4:11

In the Matter of

LOUISIANA ENERGY SERVICES, L.P.

(Claiborne Enrichment Center)

OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

Docket No. 70-3070-ML

PARTIES' NOVEMBER 16, 1992, JOINT PROGRESS REPORT

This (third) joint progress report responds to the Licensing Board's request in its May 7, 1992, Memorandum and Order (Memorializing Prehearing Conference), ASLBP No. 91-641-02-ML, that "the parties should provide the Board with a [bimonthly] joint progress report on their activities for meeting the prehearing schedule." Notices of appearance of additional NRC Staff counsel are attached hereto. This report has been reviewed, and found acceptable, by Citizens Against Nuclear Trash (Intervenor), NRC Staff Counsel, and Louisiana Energy Services, L.P. (Applicant).

The Board may wish to note that the schedule has been revised to delay the publication date of the Safety Evaluation report and the Final Environmental Impact Statement.

I. Status of Applicant's Answers to NRC Staff Questions

Applicant has revised each of the following license application documents in response to requests for additional information ("RAIs") from the NRC staff.

9211200275 921116  
PDR ADDCK 07003070  
C PDR

DS03

- License Application ("LA")
- Radiological Sabotage Analysis ("RSA")
- Emergency Plan ("EP")
- Fundamental Nuclear Material Control ("FNMC") Plan
- Physical Security Plan ("PSP")
- Security Plan for the Protection of Classified Matter and Information ("CSP")
- Environmental Report ("ER")
- Safety Analysis Report ("SAR")

Tabulated below is a summary of the revisions made (or to be made) to each of the license application documents, noting the RAIs prompting the revisions.

A. License Application

The License Application, Exhibit I, will be revised in the near future to respond to NRC Staff comments in a September 22, 1992, letter concerning disposition of depleted uranium hexafluoride. These comments were discussed further in a meeting between Applicant and the NRC Staff on November 13, 1992.

B. Radiological Sabotage Analysis

No change since last report. No additional changes or answers remain to be filed.

C. Emergency Plan

Applicant held a meeting on November 5, 1992, with the NRC Staff to discuss details to be included in the Emergency Plan. The Emergency Plan will be revised and submitted by December 15, 1992, to provide the additional detail requested by the NRC Staff.

D. Fundamental Nuclear Material Control Plan

The FNMC plan will be revised by December 4, 1992, to respond to RAIs dated August 14, 1992.

E. Physical Security Plan

No change since last report. No additional changes or answers remain to be filed.

F. Security Plan for the Protection of Classified Matter and Information

No change since last report. No additional changes or answers remain to be filed. The security survey will be done at an appropriate time.

G. Environmental Report

The ER has been revised on the following eight dates:

- August 18, 1991,
- March 13, 1992,
- March 23, 1992,
- March 31, 1992,
- May 22, 1992,
- June 30, 1992,
- July 31, 1992, and
- October 16, 1992, [NEW]

to respond to RAIs on these dates:

- March 21, 1991,
- June 25, 1991,
- November 7, 1991,
- May 20, 1992, and
- July 24, 1992. [NEW]

Applicant and the NRC Staff held a meeting on November 5, 1992, to discuss details to be included in the radiological impact analysis (ER section 4.2) and preoperational and operational monitoring programs (ER sections 6.1 and 6.2 respectively). These ER sections will be revised and submitted by December 2, 1992, to provide the additional detail requested by the NRC Staff.

ER section 4.4 will be revised in the near future to respond to comments concerning disposition of depleted uranium hexafluoride in the NRC Staff's letter dated September 22, 1992. These comments were discussed further in a meeting between LES and the NRC Staff on November 13, 1992.

Additionally, the National Pollutant Discharge Elimination System ("NPDES") permit application and State of Louisiana Permit Application to Discharge Wastewater ("Wastewater Discharge Permit") were revised by LES by letter dated October 30, 1992, to the State of Louisiana.

#### H. Safety Analysis Report

Applicant has revised the SAR twelve times on the following dates:

- August 16, 1991,
- November 27, 1991
- January 9, 1992,
- February 28, 1992,
- March 13, 1992,
- March 31, 1992,
- May 29, 1992,
- June 30, 1992,
- July 6, 1992,
- July 31, 1992,
- October 16, 1992, [NEW] and
- October 23, 1992, [NEW]

to respond to RAIs on these dates:

- March 21, 1991,
- June 25, 1991,
- November 7, 1991,
- December 26, 1991,
- May 20, 1992, and
- July 24, 1992. [NEW]

Applicant will revise SAR section 11.8 in the near future to respond to comments concerning disposition of depleted uranium hexafluoride in the NRC Staff's September 22, 1992, letter. These comments were discussed further in a meeting between LES and the NRC Staff on November 13, 1992.

Applicant will revise appropriate SAR sections in the near future to address RAIs concerning facility design criteria, classification of structures, systems, and components, and control systems, as discussed in a meeting with the NRC Staff on October 20, 1992, and as detailed in the NRC Staff's October 29, 1992, letter to Applicant.

## II. STAFF DOCUMENTS AND HEARING SCHEDULE

The Staff has revised its projected dates of February 1, 1993, as the publication date for the Safety Evaluation Report, to April 9, 1993. The publication date for the Final Environmental Impact Statement ("FEIS"), is revised from September 15, 1993 to February 21, 1994. These dates are subject to change in the future.

Based on these projected dates and the Board's schedule from the May 7, 1992, Memorandum and Order:

- Discovery on technical issues will end June 4, 1993;
- Prefiled testimony on technical issues is due July 30, 1993;
- The hearing on technical issues will start August 24, 1993;
- Discovery on environmental issues will end April 18, 1994;
- Prefiled testimony on environmental issues is due May 31, 1994; and
- The hearing on environmental issues will start June 21, 1994.

## III. DISCOVERY

### A. Intervenor's Interrogatories

#### 1. Contentions A, H, I, J, and K

April 14, 1992: Intervenor served Interrogatories on Applicant for Contentions A, H, I, J and K.

May 4, 1992: Applicant answered Intervenor's April 14 Interrogatories, and objected to answering several Interrogatories.



June 2, 1992: Intervenor filed a Motion to Compel.

June 18, 1992: The Board ruled on discovery disputes pertaining to Contentions B, H, I, J and K.

July 8, 1992: Applicant responded to the Board's Ruling and answered relevant portions of Intervenor's April 14 Interrogatories.

July 27, 1992: Intervenor filed a second Motion to Compel (which Applicant answered on August 11, 1992).

August 24, 1992: Board Order denied July 27 Motion without prejudice.

September 24, 1992: Applicant filed answers to questions provided by Intervenor in the July 27 Motion.

## **2. Contentions L and M**

April 28, 1992: Intervenor served Interrogatories on Applicant for Contentions L and M.

May 18, 1992: Applicant responded and objected to discovery of the Physical Security Plan and Fundamental Nuclear Material Control Plan, and sought a Protective Order.

July 8, 1992: The Board approved Applicant's Motion for Protective Order.

April 28, 1992: Intervenor served Interrogatories on the Executive Director For Operations and NRC Staff, pertaining to Contentions L and M.

May 18, 1992: The Staff responded and objected to providing proprietary or classified information and filed a Motion for Protective Order. This was not opposed and was granted by the Board on July 28.

## **3. Other Interrogatories**

May 14, 1992: Intervenor served Interrogatories and Request for Production of Documents on the Executive Director For Operations and NRC Staff pertaining to all admitted contentions.

July 2, 1992: The Staff responded to the discovery requests, objected to certain of the requests, and filed a motion for a protective order. This was not opposed by Intervenor. The Board granted the Staff's motion on September 18, 1992.

B. Applicant's Interrogatories

1. Contention H

April 10, 1992: Applicant served Interrogatories on Intervenor for Contention H.

June 12, 1992: Intervenor Answered Applicant's interrogatories and filed a Motion for Protective Order. (Applicant did not object to Intervenor's Motion for Protective Order.)

2. Other Contentions

August 11, 1992: Applicant served Interrogatories on Intervenor for Contentions B, I, J, K, L, M and Q.

. . . Intervenor expects to file answers to Applicant's August 11 Interrogatories on November 23, 1992.



#### IV. CONTENTIONS

The status of some Contentions has changed as a result of some contentions being withdrawn (although the status has not changed since the parties' September 15 progress report). Therefore, a brief summary below provides the status (e.g., allowed, withdrawn) of each contention and basis. A short summary of each Contention and Basis is provided for orientation purposes. This summary was prepared by Applicant's counsel and is not intended to alter or supersede the actual scope or content of the Contentions and Bases as allowed by the Board.

A. No Waste Disposal Plan. WITHDRAWN.

Contention A alleges that LES has no plan for disposal of depleted uranium hexafluoride (DUF6) and that LES must comply with the mixed waste requirements of the Resource Conservation and Recovery Act. This contention was **withdrawn** and the Basis was added to Contention B. The Basis was then **denied** by the Board on December 19, 1991.

B. Decommissioning Plan Deficiencies. PARTIALLY ALLOWED.

Contention B alleges that the Plan is inadequate because:

1. ALLOWED The \$9.5 million per year estimate allegedly does not include the cost of disposal and has no realistic basis;
2. DENIED LES allegedly does not know how or where to dispose of DUF6;
3. DENIED The decommissioning plan allegedly has no information about the amount of payments into the trust;
4. ALLOWED There are allegedly no details provided about how decommissioning costs were derived;
5. ALLOWED LES allegedly did not indicate which buildings would be decontaminated and dismantled; and
6. DENIED LES allegedly has not responded to the NRC's June 25, 1991, questions on the decommissioning plan.

C. Lack of Protection Against Worst Case Accidents. DENIED.

Contention C alleges that LES characterizes a number of reasonably foreseeable accidents as not credible and fails to fully evaluate their potential impacts on health and the environment, to protect adequately against them, or to provide adequate emergency measures. The bases are:

1. DENIED Cylinder rupture -- Dependence on administrative controls allegedly is insufficient; fails allegedly to consider the Sequoyah or Portsmouth accidents;
2. DENIED Worst case criticality accident -- LES position that criticality accidents cannot occur allegedly is not supported by the law or facts;
3. WITHDRAWN Autoclave rupture -- Overheating allegedly could occur;
4. DENIED Storage yard fire -- Procedures as a method to prevent fires allegedly are inadequate;
5. DENIED Transportation accident -- Assumption that a 30-minute fire will not occur during a crash allegedly is invalid;
6. DENIED Airplane crash -- LES allegedly fails to consider the increased use of the Homer airport as a result of CEC construction and operation; and
7. WITHDRAWN Gas well explosion -- LES allegedly does not consider the possibility or consequences of a natural gas explosion from one of the local wells.

D. Lax Attitude Toward Criticality Safety. DENIED.

Contention D alleges that LES "demonstrates a dangerously smug attitude toward serious accidents . . . corporate attitude may not contain a serious commitment to maintaining preparedness for a criticality accident."

E. Cylinder Rupture. WITHDRAWN.

Contention E alleges that LES fails to meet the requirements of 10 C.F.R. § 20.105 in the event of a cylinder rupture.

F. Lack of Criticality Monitors. DENIED (without prejudice).

Contention F alleges that LES violates 10 C.F.R. § 70.24 by not providing criticality monitors.

G. Inadequate Protection From Toxic Effects of UF6. DENIED.

Contention alleges that the plant boundary exposure limits do not provide adequate protection of the public.

H. Emergency Planning Deficiencies. PARTIALLY ALLOWED.

Contention H alleges that reasonable assurance of public health and safety is not provided in the event of an emergency. The bases are:

1. DENIED LES allegedly has not responded to the NRC's questions of June 25, 1991;
2. ALLOWED, WITHDRAWN IN PART LES allegedly has not identified primary routes for access of emergency equipment or evacuation, or offsite emergency support organizations (along with their qualifications);

The portion of Basis 2 related to "[L]ocations of fire stations, police stations, hospitals, and other offsite emergency support organizations" has been withdrawn by CANT's June 12, 1992, answer to Applicant's Interrogatories on Contention H;

3. ALLOWED The EP allegedly does not includes a list of hazardous chemicals used at the site;
4. ALLOWED IES allegedly does not identify each type of radioactive materials accident for which actions will be needed to prevent offsite dose;
5. ALLOWED More details about notification of state authorities allegedly must be provided;
6. ALLOWED The operating crew allegedly is "skeletal"; allegedly not clear are: emergency response authority when a partial crew is present, communication information, emergency training requirements, and levels of authority;
7. ALLOWED, WITHDRAWN IN PART The list of participating government agencies allegedly is inadequate;

The portion of Basis 7 that applies to the Homer Police Department has been withdrawn by CANT's June 12, 1992, answer to Applicant's Interrogatories on Contention H;

8. WITHDRAWN EP allegedly does not indicate the type or thoroughness of training for emergency response personnel;

9. DENIED EP allegedly does not specify a media information contact;
10. ALLOWED EP allegedly fails to describe authority, capability, responsibility and interfaces with government agencies;
11. DENIED EP allegedly is fatally flawed by not providing specific guidelines for offsite protective actions;
12. DENIED LES allegedly should establish an EPZ; a UF6 release can kill people as far as 20 miles away;
13. DENIED LES allegedly should indicate how it plans to notify people within a few miles of the plant;
14. DENIED LES allegedly should indicate how it plans to evacuate elderly people living near the plant;
15. DENIED LES allegedly should provide residents within 5 mi. of the CEC and inmates of Wade prison with regular, updated emergency procedures;
16. WITHDRAWN Allegedly no provisions are provided for projection of offsite radiation exposures;

This basis is **withdrawn** by CANT's June 12, 1992, answer to Applicant's Interrogatories on Contention H;

17. ALLOWED IN PART, WITHDRAWN IN PART LES allegedly has given only the vaguest description of proposed measures to mitigate **onsite** (not offsite) consequences of accidents;

The parts of this basis related to the "vaguest description of proposed measures for mitigating onsite consequences of accidents at the CEC" and "approximate times required to accomplish a safe shutdown" are **withdrawn** by CANT's June 12, 1992, answer to Applicant's Interrogatories on Contention H;

18. WITHDRAWN LES allegedly has not described instrumentation to monitor toxic materials;
19. WITHDRAWN LES allegedly has not provided backup offsite emergency communications;
20. ALLOWED LES allegedly has not described plans to ensure instruments and supplies are well-stocked and in working order;
21. DENIED The EP allegedly plans for only the most minor of possible accidents;

22. DENIED LES allegedly has not indicated how it will provide emergency plan information to local planning committees; and

23. ALLOWED. The EP Appendix allegedly lacks agreement letters and information on the capabilities of local emergency organizations.

I. Incomplete License Application. ALLOWED.

Contention I alleges that the license application and associated documents is incomplete. The Board has allowed Contention I, limited to eleven issues, the first seven of which relate to the ER, and the remaining four of which (8-11) relate to the SAR:

1. Environmental impacts of site preparation and construction;
2. Monitoring data to support source term determinations for gaseous effluents;
3. Evaluation of means of reducing liquid effluent concentrations;
4. Assessment of radiological impacts of plant operation;
5. Environmental effects of accidents;
6. Baseline data for pre-operational effluent and environmental monitoring program;
7. Program to maintain releases as low as reasonably achievable (ALARA);
8. Finalization of design features for earthquakes, tornadoes, and missiles;
9. Quality assurance program for Class I equipment;
10. Program for surveillance and maintenance of cylinders containing tails in interim storage; and
11. Management and control program.

J. Inadequate Assessment of Costs Under NEPA. PARTIALLY ALLOWED.

Contention J alleges that the benefit-cost analysis does not adequately describe or weigh the costs or impacts of the CEC and fails to demonstrate that there is a need for the CEC. The bases are:



1. DENIED ER allegedly does not discuss environmental impact of tons of mixed radioactive waste;
2. DENIED Environmental and safety analyses allegedly do not account for severe low probability accidents that result in discharges that exceed legal limits;
3. ALLOWED LES allegedly has not provided adequate basis for decommissioning cost estimates;
4. ALLOWED The need for the CEC allegedly is not shown;
5. DENIED The impact of improper use of the CEC to produce weapons-grade UF6 allegedly has not been shown;
6. ALLOWED The assessment of the effect on ground and surface water allegedly is inadequate; allegedly, the number of domestic wells is incorrect; Lake Claiborne was not dammed for flood control; allegedly LES and NRC recognize that contamination of the area is virtually inevitable;

The Board accepted this basis, restricting it to potential impacts on present and possible future surface and groundwater drinking water supply;

7. DENIED The effect on wetlands allegedly has not been evaluated;
8. DENIED Property values allegedly may be depressed; and
9. ALLOWED The CEC and closing the local road allegedly will have negative economic and sociological impacts on the local minority communities.

K. No Discussion of No-Action Alternative. ALLOWED.

Contention K alleges that LES has not discussed the no-action alternative, as required by NEPA.

L. Online Enrichment Monitoring. ALLOWED.

Contention L alleges that online enrichment monitoring should be provided to prevent unlawful diversion of production to highly enriched uranium.

M. Monitoring of Sampling Ports, Process Valves, and Flanges. ALLOWED.

Contention M alleges that LES will not adequately monitor employee access to process connections to prevent production of HEU by batch recycling.

N. Centrifuge Cell Walls. WITHDRAWN.

Contention N alleges that opaque walls around small cells of centrifuges should be prohibited.

O. Design For Effective IAEA Inspections. DENIED.

Contention O alleges that the NRC should require the cascade design be conducive to online gas enrichment monitoring by IAEA.

P. Liability Insurance. DENIED.

Contention P alleges that \$120 million in liability insurance is inadequate.

Q. Financial Qualifications. ALLOWED.

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

R. Management Competence and Integrity. DENIED.

Contention R alleges that Urenco has proven unable to control the spread of its enrichment technology.

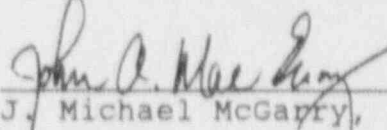
S. Quality Assurance. DENIED.

Contention S alleges that the QA plan is inadequate.

V. CONCLUSION

The parties will submit another progress report on January 15, 1993.

LOUISIANA ENERGY SERVICES, L.P.

 FOR -  
J. Michael McGarry, III

WINSTON & STRAWN  
ATTORNEYS FOR LOUISIANA ENERGY  
SERVICES, L.P.

November 16, 1992



UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

LOCKETED  
USNRC

'92 NOV 19 P4:11

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

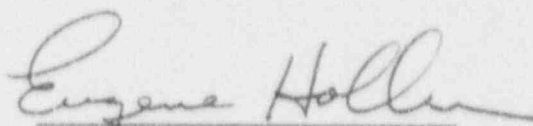
In the Matter of )  
 )  
LOUISIANA ENERGY SERVICES, L.P. ) Docket No. 70-3070-ML  
 )  
(Claiborne Enrichment Center) )

NOTICE OF APPEARANCE

Notice is hereby given that the undersigned attorney enters an appearance in the above-captioned matter. In accordance with § 2.713(b), 10 C.F.R., Part 2, the following information is provided:

Name: Eugene Holler  
Address: U.S. Nuclear Regulatory Commission  
Office of the General Counsel  
Washington, D.C. 20555  
Telephone Number: 301-504-1520  
Admissions: Court of Appeals of Maryland  
Name of Party: NRC Staff

Respectfully submitted,

  
Eugene Holler  
Counsel for NRC Staff

Dated at Rockville, Maryland  
this 10th day of November, 1992

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

DUCKETED  
USNRC

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

'92 NOV 19 P4:11

OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

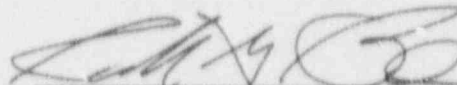
In the Matter of )  
 )  
LOUISIANA ENERGY SERVICES, L.P. ) Docket No. 70-3070-ML  
 )  
(Claiborne Enrichment Center) )

NOTICE OF APPEARANCE

Notice is hereby given that the undersigned attorney enters an appearance in the above-captioned matter. In accordance with § 2.713(b), 10 C.F.R., Part 2, the following information is provided:

Name: Richard G. Bachmann  
Address: U.S. Nuclear Regulatory Commission  
Office of the General Counsel  
Washington, D.C. 20555  
Telephone Number: 301-504-1574  
Admissions: Supreme Court of the State of California  
Name of Party: NRC Staff

Respectfully submitted,



Richard G. Bachmann  
Counsel for NRC Staff

Dated at Rockville, Maryland  
this 10th day of November, 1992

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

RECEIVED  
USNRC

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

92 NOV 19 P4:11

In the Matter of

LOUISIANA ENERGY SERVICES, L.P.

(Claiborne Enrichment Center)

Docket No. 70-3070

OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

CERTIFICATE OF SERVICE

I hereby certify that copies of "Parties' November 16, 1992, Progress Report" and notices of appearance have been served on this 16th day of November, 1992, as follows:

Administrative Judge  
Morton B. Margulies, Chairman  
Atomic Safety and Licensing  
Board  
U.S. Nuclear Regulatory  
Commission  
Washington, D.C. 20555  
(2 copies)

Administrative Judge  
Richard F. Cole  
Atomic Safety and Licensing  
Board  
U.S. Nuclear Regulatory  
Commission  
Washington, D.C. 20555

Administrative Judge  
Frederick J. Shon  
Atomic Safety and Licensing  
Board  
U.S. Nuclear Regulatory  
Commission  
Washington, D.C. 20555

Secretary of the Commission  
U.S. Nuclear Regulatory  
Commission  
Washington, D.C. 20555  
Attention: Chief, Docketing and  
Service Section  
(Original plus 2 copies)

Office of Commission Appellate  
Adjudication  
U.S. Nuclear Regulatory  
Commission  
Washington, D.C. 20555

Eugene Holler, Esq.  
Office of the General Counsel  
U.S. Nuclear Regulatory  
Commission  
Washington, D.C. 20555

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

Joseph DiStefano  
Louisiana Energy Services, L.P.  
2600 Virginia Avenue, N.W.  
Suite 610  
Washington, D.C. 20037

Peter G. LeRoy  
Duke Engineering and Services,  
Inc.  
230 South Tryon Street  
P.O. Box 1004  
Charlotte, NC 28201-1004

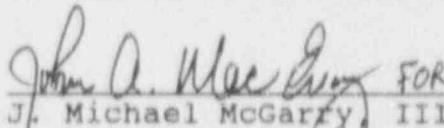
Marcus A. Rowden  
Fried, Frank, Harris, Shriver &  
Jacobsen  
1101 Pennsylvania Avenue, N.W.  
Suite 900 South  
Washington, D.C. 20004

Diane Curran  
Harmon, Curran, Gallagher &  
Spielberg  
2001 S Street, N.W.  
Suite 430  
Washington, D.C. 20009-1125

Nathalie Walker  
Sierra Club Legal Defense Fund  
400 Magazine St.  
Suite 401  
New Orleans, LA 70130

Adjudicatory File  
Atomic Safety and Licensing  
Board Panel  
U.S. Nuclear Regulatory  
Commission  
Washington, D.C. 20555

LOUISIANA ENERGY SERVICES, L.P.

  
J. Michael McGarry, III

WINSTON & STRAWN,  
ATTORNEYS FOR LOUISIANA ENERGY  
SERVICES, L.P.

November 16, 1992