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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD 97 OCT 16 P4:24

In the Matter of)

LOUISIANA ENERGY SERVICES, L.P.)

(Claiborne Enrichment Center))

OFFICE OF SECRETARY
RULEMAKING AND
ADJUDICATIONS STAFF

Docket No. 70-3070 - ML

October 14, 1997

APPLICANT'S REPLY TO PROPOSED FINDINGS OF FACT ON REMAND

1. At the September 30, 1997 Hearing Conference, this Board provided the parties an opportunity to file by noon October 14, 1997, a Reply to Proposed Findings of Fact on Remand filed by the parties on October 7, 1997.

2. With regard to CANT's Proposed Findings 17-18, the record reflects that the NRC Staff did consider a scenario where the sensitive redox potential assumption was varied significantly, from a reducing to an oxidizing environment with resulting doses remaining orders of magnitude below regulatory limits. Tr. 1151-52.

3. With regard to CANT's Proposed Finding 19, the Board notes that six experts (LES witnesses Dubiel, Donelson and LeRoy and NRC Staff witnesses Faraz, Hickey and Price) testified as to the reasonableness of the approach taken in the FEIS.

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4. With regard to CANT's Proposed Findings 22-28, the Commission's Order remanding specific limited matters back to this Board did not call into question its findings concerning the expected range of sensitive groundwater parameters. 45 NRC 99, 120-121. Therefore, our findings in this regard remain unchanged.✓

5. With regard to CANT's Proposed Findings 29-30, the Board observed at the Hearing Conference (Tr. 15), on the basis of NRC

✓ In its Proposed Findings, CANT alleges a number of inaccuracies (¶ 23-28, 37). Each of these is addressed in the Board's Partial Initial Decision. 45 NRC at 120-121. See also LES's Proposed Findings at 397-413. The major theme relied upon by Intervenor is the existence of other data which allegedly calls into question FEIS assumptions and analysis. As noted by the NRC Staff witnesses, both they and their hydrogeologists who performed the analysis were aware of the matters raised in Paragraphs 23-28; indeed, they were specifically questioned about them, but chose not to rely upon them because more reliable, referenced, actual site data existed. Tr. 1114-1119 and 1141-1149; see also LES Testimony following Tr. 1026 at 15 and Tr. 1164-67. For example, while information does reference redox potentials as high as +200, the NRC Staff also noted that other literature reflected values as low as -200. Tr. 1119. Further, the NRC Staff concluded that with respect to the +250 value, contrary to Intervenor's suggestion, the majority of the range of values is in the reducing environment (Tr. 1119), eH values associated with uranium mines are not fully representative of deep groundwater (Tr. 1148), and thus it would be inappropriate to use such a high oxidizing value as part of the range of values. See Tr. 1115-1117 (and Tr. 1164-1165) for a similar discussion of retardation ranges; see Tr. 1114-1115 (and Tr. 1164-1165) for a discussion of pH.

Staff Testimony (Tr. 1145-49), that the NRC Staff expects that the selected deep mine would be backfilled after emplacement of U_3O_8 so as to result in a reducing environment.

6. With regard to CANT's Proposed Findings 31-35, the Board notes that Congress places responsibility on DOE with regard to disposal of uranium tails. 42 USC 2297 h-11; see also 1069-73. Given Congress' action and the role of the federal government, it is unreasonable to assume a suitable site will not be found, particularly in light of the fact that disposal will not occur until after 15 years of operation. LES Testimony following Tr. 1016 at 33 and Tr. 1051; FEIS at A-1. Further, given that the \$1/kgU disposal estimate used by LES, which was provided by the NRC (LES Exhibit 4h; NRC Staff Testimony following Tr. 1106 at 9), was based upon a DOE-sponsored study (LES Exhibit 7 at 17), it is reasonable to assume that such cost is reflective at this time of U_3O_8 disposal costs in general, particularly for a plausibility finding.

7. With regard to CANT's Proposed Finding 36, the NRC Staff attorney clarified at the Hearing Conference (Tr. 30-31) the nature of the dose values presented in the FEIS (i.e., that the calculated dose is the incremental increase to the dose that would already be

present -- background dose). See FEIS at 4-65, which explains that radiological impacts are those associated with the disposal of the U_3O_8 .

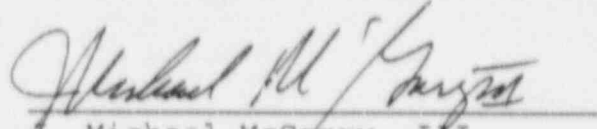
8. With regard to CANT's Proposed Finding 38, the Board would note that requiring the performance of a sensitivity analysis at this time (i.e., when only a plausible disposal scenario is to be identified) and under these circumstances (i.e., the need for such a site being more than 15 years in the future) is not necessary or reasonable; that absent specific site parameters, as suggested in an NRC Staff Branch Technical Position regarding low level waste facilities (Tr. 1120-21), the value of such an exercise would be problematical and thus the course pursued in the FEIS is reasonable, particularly in light of the extremely low resultant projected doses. See LES Testimony following Tr. 1026 at 14. The Board observes that Intervenors' witnesses provided no corresponding dose analysis. Tr. 1180.

9. In conclusion, the Board finds that Commission regulations require the identification of a plausible strategy. As such, the rigorous examination of an ultimate disposal site will occur when such an application for a license is filed. At this time, we look to whether a suitable site could be later identified.

Given NRC Staff evidence that (1) deep mine disposal is a viable option; (2) actual site data representative of deep mines has been used; and (3) resulting doses are orders of magnitude below regulatory requirements, we conclude that a plausible scenario has been identified and that the costs associated therewith have been properly factored into the appropriate analyses.

LOUISIANA ENERGY SERVICES, L.P.

October 14, 1997


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CERTIFICATE OF SERVICE

I hereby certify that copies of the attached **APPLICANT'S REPLY TO PROPOSED FINDINGS OF FACT ON REMAND** were served upon the following this 14th day of October, 1997:

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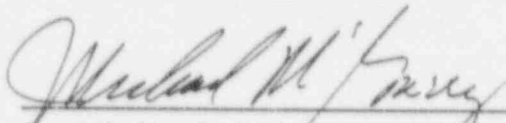
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October 14, 1997


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