

**BRIEFING BEFORE THE NRC ON THE LICENSING AND HEARING  
PROCESSES AND SITING ISSUES OF URANIUM ENRICHMENT  
FACILITIES**

Thursday, February 5, 2009  
Rockville, Maryland

**The New Mexico Experience**

**Before the NRC**

Good morning. My name is Ron Curry and I am Secretary of the New Mexico Environment Department. The State of New Mexico became involved in the licensing proceeding of Louisiana Energy Services before the U.S. Nuclear Regulatory Commission in 2004. At that time, we had little information on the proposed LES facility and had concerns for the safety of the citizens of New Mexico and for our environment relative to the project. LES had been denied a license and was unable to locate its operations in Louisiana and Tennessee. We did not want to place New Mexico at risk.

The state, through the Environment Department, petitioned to intervene in the NRC proceeding on LES. The Governor's office was involved in the state's position because of the high profile nature of the project and the potential impacts the facility would have on New Mexico. The state, we believe, encountered unnecessary procedural hurdles before the NRC and a certain resistance to our intervention regarding our concerns regarding the storage and disposal of depleted uranium (DU). That resistance made it difficult for the state to have a forum to express its requirements.

The state had concerns regarding the volumes of DU that LES intended to store outside its facility and the length of time LES intended to store the DU. We had those concerns because of the history of other uranium enrichment facilities operated by the U.S. Department of Energy

with regard to long term storage of DU and potential groundwater contamination. The state also did not want to become a “dumping ground” for radioactive waste and wanted to ensure that LES or an affiliate would not dispose of uranium waste in New Mexico. The state, through the Attorney General’s office, also had concerns regarding the amount of financial assurance LES was required to place for potential impacts created by the facility.

The NRC however, did not allow the state standing to address its major concerns. The NRC should consider in the future how to make its process more amenable and accessible to states.

### **New Mexico Groundwater Permitting**

While the NRC proceeding progressed, the State of New Mexico had in place its own permitting process for LES. In our state, facilities that have any potential to contaminate groundwater are required to obtain a groundwater discharge permit from the Environment Department. We are proud to have one of the strongest, if not the strongest, groundwater protection program in the country. LES’s operations had the potential to contaminate the aquifer through the facility’s industrial processes and wastewater and, therefore, we required LES to obtain a groundwater permit. That process required LES to submit a detailed application to the Environment Department describing the facility’s discharges and how it intended to protect groundwater from those impacts. LES’s proposed permit with the Environment Department called for a storm water pond, a sewage treatment system and two evaporation ponds that would hold industrial and domestic wastewater from the proposed plant. The Environment Department conducted a thorough review of LES’s application and held a public hearing in the community where LES proposed to locate. After submitting to the state’s ground water permitting process,

the Environment Department determined that LES met all requirements, and we issued a ground water permit to LES in May 2006.

### **The Settlement Process**

Despite the difficulties in obtaining standing before the NRC, the State was able to enter into settlement negotiations with LES to negotiate the issues of concern. We believe the State was able to enter into those negotiations because the state's authority over the groundwater permit motivated LES to try to resolve the issues that had been raised by Governor Richardson, including allowable amounts for the temporary storage of DU in New Mexico, and because LES was interested in showing the Governor that it was willing to address his concerns. The negotiations with LES involved the Governor's Office, the Environment Department and the Attorney General's Office.

The negotiations were hard fought, but the State and LES ultimately agreed on all issues of concern. The parties agreed on limits on the amount of DU that could be stored on site and the length of time any one cylinder could be stored at the facility. The maximum cylinder limit is 5,016, and no one cylinder can be stored on site more than 15 years. The state wanted firm assurance that the limits would not be violated and, therefore, we negotiated a provision that a violation of the limits would lead to suspension of LES's production of enriched uranium. LES also agreed not to dispose of DU waste in the State of New Mexico. Finally, LES agreed to increased contingency factors in its financial assurance package.

We required that, as part of the agreement, all those conditions become part of the NRC license, enforceable by the NRC. The parties requested that the NRC approve those conditions and make them part of the license -- even though they were not issues before the NRC that the State was able to raise -- and the NRC agreed. The result, we believe, is a strong agreement and

license that protects the State of New Mexico.

### **LES and Community Involvement**

LES has shown itself to be a good corporate citizen despite LES's rocky beginnings with the state. It worked hard to gain community support for its project. LES certainly benefited from locating in an area of the state with little development and that needed jobs. But LES also worked hard to demonstrate to the community that its facility would be safe for the residents and for the environment. LES gained the support of the community and that helped the company through the groundwater permitting process before the Environment Department. However, there were some members of the community opposed to the facility. We received one request from a citizens group, Citizens Against Radioactive Dumping, asking for the denial of the permit. That group has continued to fight the facility's permit and is awaiting a decision from the New Mexico Court of Appeals. We anticipate the Court of Appeals will uphold the Department's permit. Despite that group's position, community support for the facility outweighs opposition.

At present, then, LES is operating under the NRC license and the Environment Department's groundwater permit, and the license; and LES is constructing its facility as we speak.