

November 13, 2002

RECEIVED

NOV 20 PM 2:46

Michael Lesar
Chief, Rules Review and Directives Branch
Division of Administration Services, Office of Administration
United States Nuclear Regulatory Commission
Washington, DC 20555

Rules and Directives

Branch

10/2/02

67 FR 61932
(319)

Dear Mr. Lesar:

Please allow this document to serve as a formal statement from Citizens for Smart Choices in opposition to the proposed uranium enrichment plant that Louisiana Energy Services wishes to build in Hartsville, Tenn.

In our opinion, LES is railroading the NRC license approval process. Over the course of numerous informal meetings since the beginning of this year, LES and its sponsors have submitted proposals ("white papers") urging the NRC staff to short-circuit long established legal requirements, precedents and procedures—normally part of the formal licensing process for nuclear plants—by severely limiting public comment and review of the issues that surround a project of this magnitude. Issues include: environmental standards applicable to approval; the actual need for such a plant in view of market overcapacity; national security considerations and previous predatory practices of project sponsors; competitive aspects of project approval; financial sustainability of the partnership and project sponsors; need for Environmental Impact Statement to address waste disposal; implications of foreign ownership on national security; additional dependence on foreign energy supplies; access to the plant in emergency situations and competition.

LES has already missed two of its own publicly announced pre-application filing deadlines (March and June) in an effort to quietly establish ground rules that would prevent appropriate questioning before the statutorily mandated public process starts. Such tactics would be offensive in any setting, but are particularly egregious here where the specific subject matter LES seeks to make inadmissible speaks to serious weaknesses in the project's and the sponsors' record and positions. Specifically, the project and its sponsors have embarrassing environmental and security records they do not want reviewed or publicized.

LES 1, the same physical project, failed to obtain an NRC license in 1998, after spending approximately \$40 million over eight years, because of serious environmental shortcomings and insensitivities to local concerns in Homer, Louisiana. That attempt to railroad the project through with little attention to local residents in a predominantly minority-populated and rural area backfired. Indications from the two finalist sites for this project, and more recently from the final choice in Hartsville, indicate the same kind of arrogant indifference.

Template = ADM-013

E-HDS = ADM-013
Add = T. Johnson (TC5)

Urenco, the chief project sponsor, and its partial owner British Nuclear Fuels Limited (BNFL), have a long record of major safety, environmental and security violations resulting in fines and serious liabilities both in the U.S. and in Europe. Urenco had enriched uranium shipments halted at its facility in Germany for over six months in June of 2000 due to environmental controversies and experienced a major fire at its facility in Germany in 1995; following this accident, public officials accused the company of withholding critical information about the incident from the public before, during and after it occurred. Most significantly, Urenco's security failures have contributed to both Iraq and Pakistan gaining critical know-how and technology to manufacture nuclear materials. A German scientist working for Urenco was convicted in 1993 of selling critical nuclear secrets involving Urenco centrifuge technology to the Iraqis. Urenco had been unaware of these activities until U.N. inspectors following the Gulf War in 1995 found records confirming that the company's security lapses facilitated the acquisition of that information. Subsequently, a Pakistani Urenco employee took the same information to his government when he returned home.

BNFL, one of the parent companies of Urenco, has been prosecuted and fined 10 times in 10 years for environmental, safety and security violations. Most recently, Japanese utilities canceled their reprocessing contracts when BNFL employees fraudulently falsified records in 2000 dealing with quality controls. The U.S. Department of Energy (DOE) fired BNFL in 2000 from its \$7 billion contract to clean up the Hanford nuclear waste site when BNFL badly missed both its time and pricing targets. Two years earlier, the Government Accountability Project had warned Secretary of Energy Richardson to avoid contracting with BNFL "due to the firm's global record of repeated, serious violations of environmental laws, regulations and standards as well as a pattern of lies, deceptions and false statements to the public and governmental officials." Workers at the Oak Ridge National Laboratory were exposed to radiation from a fire in 2000 because of BNFL's ineptitude and lapses; the union in Oak Ridge stated they had "evidence of violations that would support debarment." The NRC cited BNFL for six serious safety violations in 1998 at its fuel services operations in Santa Cruz, California. Earlier this year 2000 tons of nuclear waste at BNFL's Sellafield facility in England nearly exploded, a BNFL train carrying three empty, spent nuclear fuel casks derailed in Scotland and radiation exposure was experienced when spent fuel rods were improperly handled in Scotland. The list goes on with discharges into the Irish Sea in 2000, a reactor refueling accident in 2001, unauthorized nuclear discharges from two other reactors in 2001, prosecution of BNFL for failure to maintain radioactive alarm systems, loss of radioactive material from a 2000 decommissioning site and countless other violations which underscore a chronically deficient health and safety record.

Also of concern is the storage of the radioactive waste generated by the plant. LES CEO George Dials has publicly stated that the company would store the waste for "as long as possible" in case a market opens up to sell it for reprocessing. More than two-thirds of the site on the draft plan is dedicated to cask storage. A National Geographic article in June detailed the leaking casks stored in Paducah, Kentucky, offering further proof that the valves and seals in the storage containers eventually fail. When they do fail, it's too late to prevent the damage.

It would be unheard of to conduct a formal licensing proceeding of a foreign owned nuclear facility in the United States controlled and operated by companies with this kind of track record without a careful review of these facts, yet this is clearly one of the subject areas that LES is attempting to get ruled out-of-bounds before any formal proceeding even begins.

Taking into account the combined ownership shares in LES of Urenco, Cameco and Westinghouse (owned by BNFL), this strategically important nuclear fuel production facility will be at least 70 percent foreign-owned by some parties who have already been found guilty by the relevant U.S. agencies of predatory trade practices directed at the U.S.'s only domestic uranium enricher. This question becomes more important and politically sensitive in the face of the German and Dutch governments' (which own two-thirds of Urenco and in whose countries Urenco's plants are sited) outspoken opposition to U.S. policy in the Middle East; German Chancellor Schröder recently stated that neither he nor the European Union would have "any part of American adventures in Iraq." From a national security standpoint, foreign government ownership raises additional questions which must be reviewed concerning U.S. access to the operation of such an important infrastructure plant (a major portion of U.S. electrical production) during critical times of international conflict.

Indeed, as a matter of national policy, the Congress clearly stated in the Energy Policy Act of 1992 that an important factor in maintaining a domestic uranium enrichment business is the extent of foreign ownership, domination or control. Given the substantial number of U.S. jobs, and the legitimate national security questions associated with the appropriate level of U.S. dependence on foreign supplies of such a critical fuel—particularly in view of the documented foreign policy opposition of the host countries, complications of access during emergencies and the predatory practices and statements of the sponsors—NRC review of this critical factor is essential.

Various LES partners are facing serious financial problems in areas that could impact the future viability of the partnership. Specifically, British Energy (BE), whose current difficulties have a direct and material impact on three partners—Cameco, BNFL/Westinghouse, and Exelon—raises questions. BE is on the verge of bankruptcy and has turned to the British government for a long-term loan to continue its operations. BE is BNFL's single-largest customer. If BE goes under, how will BNFL's subsidiary, Westinghouse, be allowed to make an investment of up to \$400 million in the LES venture? It should also be noted that Westinghouse is a foreign-owned entity, not the old U.S. brand that many people identify them as. BE also has a joint venture with Exelon in AmerGen, a stake which BE is actively trying to sell. Exelon is considering buying BE's share of the venture, however, this could impact its willingness to move forward with LES. If Exelon sells its own stake, it will be left with little strategic interest in partnering with LES.

The government of Ireland is seeking arbitration over BNFL's refusal to fully disclose their pollution problem at the trouble-plagued Sellafield plant in Cumbria. It is believed

that the plant's discharge is increasing the rate of cancer among people in proximate areas. BNFL is a keystone in the LES venture, yet they're opposed to making basic safety disclosures. Cameco is committed to 29 percent of the LES venture. Additionally, Cameco is in a joint venture with near-bankrupt BE in an effort to revamp and operate the Bruce Power Plant in Ontario, Canada. To continue the Canadian venture and meet the financial security standards of the Ontario government, the Cameco-BE partnership needs to ensure the availability of \$150 million (U.S.), which has not been provided. To save the venture, Cameco is considering buying out BE's share and risking its expected contribution to LES. Cameco's Bruce Power Plant is a classic example of how the Canadian and local Ontario governments rushed into a seemingly alluring joint venture with an aggressive British company seeking to expand its worldwide influence without adequate examination of the financial security of the partners behind the venture.

The French company Areva is paying Urenco \$2.4 billion for a 50-50 venture to build a new centrifuge enrichment plant that will presumably be built in France for the primary purpose of competing in the American market. Neither Urenco nor Areva officials will comment on whether the deal involved some level of participation by Areva in LES, which could mean that such a deal is under consideration.

Duke Energy Corporation, one of the few American partners in the LES venture, has recently reported a 71 percent decline in its third-quarter profits and announced the elimination of more than 1,500 jobs amidst troubles facing its wholesale power-trading business. Duke reports a flat 2003 earnings outlook. It is very unlikely that any of the three announced U.S. utilities will put their credit rating at risk by providing substantial equity for the project; Urenco and its parent BNFL are burdened with \$10 billion of environmental liabilities and large losses which have caused their proposed privatization to be cancelled.

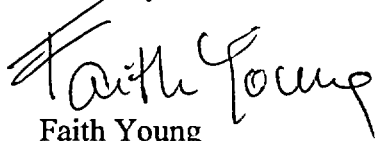
There is currently an oversupply of worldwide enrichment capacity. This concern is heightened by the importation into the U.S. of nuclear fuel derived from dismantled Russian nuclear weapons, comprising about one-half of U.S. domestic sales. Additional U.S. capacity could cause a collapse in market prices that would either preclude financing or threaten the Russian import program, a critical national security undertaking. These financing and national security issues must be given a full and fair hearing. Based on the overwhelming financial problems of the LES partners, the NRC and the citizens of Hartsville and Trousdale County should be concerned that they might be left with a half-built facility.

The object of the sponsors has been to circumvent the NRC approval process procedures and precedents by undertaking as much communication and give-and-take out of the public eye as possible—raising the specter that consideration of financing plans, foreign ownership, security risks and environmental track record may be minimized or eliminated.

On such important issues, NRC needs to conduct its reviews in the open, pursuant to applicable laws and precedent, in a fair manner.

Please consider our concerns, wholly based on LES' and its partners track records and documented scientific data, as you determine fitness for licensure. The citizens of Hartsville and the surrounding area believe that this project would be detrimental to the health, safety and environment of the community, the state, and the nation. Thank you for your time.

Sincerely,

A handwritten signature in black ink that reads "Faith Young". The signature is written in a cursive, flowing style with a large, prominent "F" and "Y".

Faith Young
Citizens for Smart Choices