

January 23, 2004

Mr. Rod Krich
Vice President
Louisiana Energy Services
1133 Connecticut Avenue
Suite 200
Washington, DC 20036

SUBJECT: GAS CENTRIFUGE PROJECT AGREEMENT STATE LICENSING

Dear Mr. Krich:

The purpose of this letter is to clarify the following statement I made in my letter of December 18, 2003:

“Because a uranium enrichment facility is considered to be a production facility and licensed by NRC under the provisions of 10 CFR Parts 40 and 70, all activities relating to the use of special nuclear, source, and byproduct material would be entirely under the regulatory jurisdiction of NRC.”

However, an enrichment facility for purposes of licensing under 10 CFR Parts 40 and 70 is licensed as a uranium enrichment facility and not as a production facility. While enrichment facilities are not generally considered production facilities, the Commission, in its regulations in 10 CFR Part 150, (Exemptions and Continued Regulatory Authority in Agreement States and in Offshore Waters Under Section 274) included uranium enrichment facilities within the definition of a production facility. Consequently, all activities related to the use of special nuclear, source, and byproduct material at an enrichment facility would be entirely under the jurisdiction of the NRC. This is consistent with section 274c.(1) of the Atomic Energy Act of 1954, as amended, which provides that the NRC retains the authority to regulate production and enrichment facilities.

R. Krich

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If you have any questions, please contact me at 301-415-7299.

Sincerely,

/RA/

Timothy C. Johnson, Project Manager
Special Projects and Inspection Branch
Division of Fuel Cycle Safety
and Safeguards
Office of Nuclear Material Safety
and Safeguards

Docket No. 70-3103

cc: William Szymanski/DOE
James Curtiss/W&S
Mario Robles/USEC
James Ferland/LES
Dennis Holmberg/Lea County
James Brown/Eunice
Bobby Walloch/Hobbs
Michael Marriotte/NIRS
Lee Cheney/CNIC

Claydean Claiborne/Jal
Troy Harris/Lovington
Betty Richman/Tatum
Glen Hackler/Andrews
William Floyd/New Mexico
Richard Ratliff/Texas
Jerry Clift/Hartsville
Derrith Watchman-Moore/New Mexico

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