

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSIONBEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	
LOUISIANA ENERGY SERVICES, L.P.)	Docket No. 70-3103
)	
(National Enrichment Facility))	
)	

NRC STAFF REQUEST FOR LEAVE TO FILE SURREPLY TO REPLY OF NMEDINTRODUCTION

Pursuant to the Board's Order of April 27, 2004,¹ the NRC Staff ("Staff") hereby requests leave to file a surreply on May 24, 2004, to the filing of the New Mexico Environmental Department ("NMED") submitted on May 10, 2004.² The Staff requests the opportunity to reply to NMED's filing because it impermissibly raises new issues and contentions in this proceeding.

DISCUSSION

When this Board granted NMED an extension of time in which to reply to the responses of the Staff and Louisiana Enrichment Services, L.P. ("LES"), it explicitly noted the Commission's direction that replies should be focused on the legal or logical arguments raised in the responses by the Staff and applicant. Order at 2. The reply submitted by NMED, however, purports to explain the basis of a contention in its original filing by providing additional statements of fact and expert opinion, Reply at 2, and proffers a new contention relating to emergency planning, Reply at 12-14. Because this filing clearly exceeds the narrow bounds to which a reply should be confined, the Staff seeks the opportunity to respond and address these issues. Further, the Staff requests that it be

¹Memorandum and Order (Granting Motion for Extension of Time) ("Order").

²Reply in Support of NMED's Petition to Intervene ("Reply").

allowed until May 24, 2004, to file its surreply. Because the New Mexico Attorney General has been granted an extension of time until that date to reply to responses of the Staff and LES³, this request would not cause any delay in the proceeding.

CONCLUSION

For the reasons stated above, the Staff requests leave, until May 24, 2004, to file a surreply to the May 10, 2004, filing submitted by NMED.

Respectfully submitted,

/RA/

Lisa B. Clark
Counsel for NRC Staff

Dated at Rockville, Maryland
this 12th day of May, 2004

³The extension was granted by Memorandum and Order (Granting in Part on Time Extension Motion and Setting Reply Schedule), May 10, 2004.

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CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF REQUEST FOR LEAVE TO FILE SURREPLY TO REPLY OF NMED" in the above-captioned proceedings have been served on the following by deposit in the United States mail; through deposit in the Nuclear Regulatory Commission's internal system as indicated by an asterisk (*) and by electronic mail as indicated by a double asterisk (**) on this 12th day of May, 2004.

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