

RAS 7737

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD

DOCKETED 05/10/04

SERVED 05/10/04

Before Administrative Judges:

G. Paul Bollwerk, III, Chairman
Dr. Paul B. Abramson
Dr. Charles N. Kelber

In the Matter of

LOUISIANA ENERGY SERVICES, L.P.

(National Enrichment Facility)

Docket No. 70-3103-ML

ASLBP No. 04-826-01-ML

May 10, 2004

MEMORANDUM AND ORDER
(Granting in Part on Time Extension Motion and
Setting Reply Schedule)

Previously, in a May 5, 2004 motion, the Attorney General of New Mexico (AGNM) requested a twenty-three day extension of time within which to file a reply to the respective April 30, 2004 and May 3, 2004 responses of the NRC staff and applicant Louisiana Energy Services, L.P., (LES) to the April 5, 2004 AGNM hearing petition, representing therein that all participants other than LES had indicated they had no objection to the request. In a May 6, 2004 order, the Licensing Board directed that LES provide its response to the AGNM motion by Friday, May 7, 2004. Additionally, the Board requested that the LES answer address whether it objected to providing the AGNM under an appropriate protective order with the proprietary material cited by the AGNM as being referenced by LES in its May 3 response and/or its December 12, 2003 application and, if not, when it anticipated such an order could be agreed to by the relevant participants and provided to the Board for signature.

In its May 7 answer, LES indicates that, while it does not necessarily agree with the bases cited in support of the AGNM motion, it does not object to the AGNM extension request,

although it suggests a shorter period of seventeen days would be adequate. LES also declares that some of the purported proprietary material cited by the AGNM is, in fact, publically available, and commits to aiding the AGNM to obtain that information. LES further asserts that the balance of the proprietary material is more properly the subject of discovery should the relevant AGNM contention -- Technical Contention (TC) ii -- be admitted, although LES adds that it "will endeavor to provide the information to the AG[NM] earlier." Answer of [LES] to [AGNM] Motion for Extension of Time (May 7, 2004) at 7.

In an April 27, 2004 order, the Board provided petitioner New Mexico Environment Department (NMED) an additional fourteen days to file its reply to the LES and staff responses to the NMED hearing petition, which NMED had filed some two weeks prior to the AGNM petition. Under the circumstances, the Board grants in part the AGNM extension request in that the AGNM likewise will have an additional fourteen days, or until Monday, May 24, 2004, to submit its reply to the LES and staff responses to its petition insofar as it wishes to address matters other than TC ii. With regard to TC ii, however, the Board finds it appropriate to provide the AGNM and any of the other participants before the Board with an opportunity to reply to the portion of the LES answer addressing the availability of the purported proprietary

information. Such replies shall be filed so as to be received by the Board no later than
4:30 p.m. Eastern Time on Tuesday, May 11, 2004.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD*

/RA/

G. Paul Bollwerk, III
ADMINISTRATIVE JUDGE

Rockville, Maryland

May 10, 2004

* Copies of this memorandum and order were sent this date by Internet e-mail transmission to counsel for (1) applicant LES; (2) petitioners NMED, AGNM, and Nuclear Information Resource Service/Public Citizen; and (3) the staff.

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB MEMORANDUM AND ORDER (GRANTING IN PART ON TIME EXTENSION MOTION AND SETTING REPLY SCHEDULE) have been served upon the following persons by deposit in the U.S. mail, first class, or through NRC internal distribution.

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[Original signed by Evangeline S. Ngbea]

Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 10th day of May 2004