

DOCKETED
USNRC

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

July 20, 2004 (10:39AM)

ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

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.)	Docket No. 70-3103-ML
)	
(National Enrichment Facility))	ASLBP No. 04-826-01-ML
)	

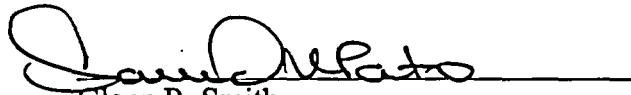
**NEW MEXICO ATTORNEY GENERAL'S NOTIFICATION OF LICENSING
BOARD OF STATUS OF POSITION ON FACILITY DECOMMISSIONING
CONTINGENCY FACTOR ISSUE**

On July 7, 2004, Louisiana Energy Services, L.P. ("LES") filed a Notification of Licensing Board of Status of Discussions on Facility Decommissioning Contingency Factor Issue, in which it recognized that the New Mexico Attorney General ("Attorney General") would need an opportunity to consult with her expert before commenting on whether LES's commitment to use the baseline 25% decommissioning contingency factor set forth in NUREG-1757 would provide adequate protection for the health and safety of the citizens of New Mexico. Having consulted with her expert, it is the position of the Attorney General that a particular contingency factor must not be derived in a vacuum, but rather must be examined within a larger context, taking into account, for instance, such things as the lack of available disposal options for the depleted Uranium Hexafluoride LES proposes to produce, and the attendant uncertainties regarding the costs of disposal. Additionally, on July 8, 2004, Nuclear Regulatory Commission Staff

("NRC Staff") informed the Attorney General that it has not yet completed its review and does not have a final position with respect to the Decommissioning Contingency Factor issue at this time. The proceeding before this Licensing Board provides LES, NRC Staff, NIRS/Public Citizen, and the Attorney General ample opportunity to ensure that an adequate decommissioning contingency factor is reached, while taking these and other considerations into account. Accordingly, the Attorney General respectfully requests that this Licensing Board admit this issue to this proceeding so that it can make a fully informed decision after hearing all of the evidence.

Respectfully submitted,

PATRICIA A. MADRID
New Mexico Attorney General

A handwritten signature in black ink, appearing to read "Glenn R. Smith", is written over a horizontal line.

Glenn R. Smith
Deputy Attorney General
Christopher D. Coppin
Of Counsel
Stephen R. Farris
David M. Pato
Assistant Attorneys General
P.O. Box 1508
Santa Fe, New Mexico 87504-1508
Telephone: (505) 827-6021
Facsimile: (505) 827-4440

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

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

CERTIFICATE OF SERVICE

I hereby certify that copies of the NEW MEXICO ATTORNEY GENERAL'S NOTIFICATION OF LICENSING BOARD OF STATUS OF POSITION ON FACILITY DECOMMISSIONING CONTINGENCY FACTOR ISSUE have been served upon the following persons by electronic mail, facsimile, and/or first class U.S. mail 9th day of July, 2004:

Office of Commission Appellate
Adjudication
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Administrative Judge
Paul B. Abramson
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
E-mail: pba@nrc.gov

Dennis C. Dambly, Esq.
Office of the General Counsel
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
E-mail: dcd@nrc.gov

Administrative Judge
G. Paul Bollwerk, III, Chair
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
E-mail: gpb@nrc.gov

Administrative Judge
Charles N. Kelber
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
E-mail: cnk@nrc.gov

James R. Curtiss, Esq.
Winston & Strawn LLP
1400 L Street
Washington, DC 20005-3502
E-mail: jcurtiss@winston.com


Tannis Fox, Esq.
Clay Clarke, Esq.
Assistant General Counsel
State of New Mexico Environment Dep't
1190 St. Francis Drive
Santa Fe, NM 87502-6110
E-mail: clay_clarke@nmenv.state.nm.us

Secretary of the Commission
U.S. Nuclear Regulatory Commission
Attn: Rulemaking & Adjudications
Staff
Washington, DC 20555-0001
Facsimile: (301) 415-1101
E-mail: hearingdocket@nrc.gov

Office of General Counsel
U.S. Nuclear Regulatory Commission
Attn: Assoc. Gen. Counsel for Hearings,
Enforcement & Administration
Washington, DC 20555-0001
Facsimile: (301) 415-3725

Lisa Cook, Esq.
Angela Coggins, Esq.
Office of the General Counsel
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
E-mails: lbc@nrc.gov
ABC1@nrc.gov

Lindsay A. Lovejoy, Jr., Esq.
618 Paseo de Peralta, Unit B
Santa Fe, NM 87501
E-mail: lindsay@lindsaylovejoy.com


David M. Pato
Assistant Attorney General



Attorney General of New Mexico

PATRICIA A. MADRID
Attorney General

STUART M. BLUESTONE
Deputy Attorney General

July 9, 2004

Secretary of the Commission
United States Nuclear Regulatory Commission
Attn: Rulemaking and Adjudications Staff
Washington, D.C. 20555-0001
Facsimile: (301) 415-1101

Re: **In the Matter of Louisiana Energy Services, L.P. (National
Enrichment Facility)**
 Docket No. 70-3103

Dear Rulemaking and Adjudications Staff:

Enclosed are the original and three copies of the New Mexico Attorney General's Notification of Licensing Board of Status of Position on Facility Decommissioning Contingency Factor Issue for filing in the above matter. The New Mexico Attorney General would appreciate it if you would kindly file, endorse and return a copy in the enclosed self-addressed, stamped envelope provided herewith.

Thank you for your assistance.

Sincerely,

A handwritten signature in black ink, reading "David M. Pato", is positioned above the typed name.

David M. Pato
Assistant Attorney General
New Mexico Attorney General's Office

Enclosures