

RAS 8225

July 29, 2004

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

DOCKETED  
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August 4, 2004 (2:37PM)

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

In the Matter of:	)	
	)	Docket No. 70-3103-ML
Louisiana Energy Services, L.P.	)	
	)	ASLBP No. 04-826-01-ML
(National Enrichment Facility)	)	

STATUS REPORT REGARDING THE DESIGNATION OF LEAD PARTY ON  
AGNM TECHNICAL CONTENTION I AND NIRS/PC ENVIRONMENTAL  
CONTENTION 5 AND TECHNICAL CONTENTION 2

In its Memorandum and Order (Rulings Regarding Standing, Contentions, and Procedural/Administrative Matters) (July 19, 2004), the Board admitted the Attorney General's first technical Contention, which addressed the sufficiency of LES's contingency factor. However, the Board consolidated this contention with NIRS/Public Citizen's Contentions fifth Environmental Contention and its second technical contention, which, in addition to addressing the sufficiency of LES's contingency factor, challenged the low estimate of LES's cost of capital and LES's incorrect assumption that the costs are for low-level waste only. Additionally, the Board designated NIRS/Public Citizen as the lead party for this contention. On July 22, 2004, the New Mexico Attorney General filed a Petition for Leave to File a Motion for Reconsideration, which requested that Board designate both the Attorney General and NIRS/PC co-lead parties on the contingency factor issue. This Status Report is intended to apprise the Board of

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subsequent discussions between the AGNM and NIRS/PC, and is filed with the approval of NIRS/PC.

The AGNM and NIRS/PC, the parties affected by the AGNM's Motion, are discussing a means to jointly and cooperatively adjudicate. As of this time, LES has indicated that it takes no position on the Attorney General's Petition and will not file a response. Counsel for NIRS/PC, Lindsay Lovejoy, is presently out of the country and communication logistics make it difficult to come to a final resolution until he returns. Accordingly, the Attorney General will either file a written proposal to the Board by next Friday, or will notify the Board that we were not able to reach agreement and request Board action on our Motion.

Respectfully submitted,

PATRICIA A. MADRID  
New Mexico Attorney General



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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

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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 STATUS REPORT REGARDING THE DESIGNATION OF LEAD PARTY ON AGNM TECHNICAL CONTENTION I AND NIRS/PC ENVIRONMENTAL CONTENTION 5 AND TECHNICAL CONTENTION 2 have been served upon the following persons by electronic mail, facsimile, and/or first class U.S. mail this 29th day of July, 2004:

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July 29, 2004

Secretary of the Commission  
United States Nuclear Regulatory Commission  
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Washington, D.C. 20555-0001  
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Re:           **In the Matter of Louisiana Energy Services, L.P. (National  
Enrichment Facility)**  
              Docket No. 70-3103

Dear Rulemaking and Adjudications Staff:

Enclosed is the original and three copies of the Status Report Regarding the Designation of Lead Party on AGNM Technical Contention i and NIRS/PC Environmental Contention 5 and Technical Contention 2 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 cursive script, reading "David M. Pato".

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

Enclosures