RAS 8519

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ADJUDICATIONS STAFF

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

RESPONSES ON BEHALF OF
PETITIONERS
NUCLEAR INFORMATION AND RESOURCE SERVICE
AND
PUBLIC CITIZEN
TO REQUESTS FOR ADMISSIONS
BY COMMISSION STAFF

Petitioners Nuclear Information and Resource Service and Public Citizen ("NIRS/PC") respond herein to the requests for admission served by the Staff of the Nuclear Regulatory Commission on September 9, 2004. The requests, followed by the response by NIRS/PC, are as follows:

REQUEST FOR ADMISSION NO. 1:

> Do you admit that if the DUF6 is converted to U3O8 only by upgrading the HF product to anhydrous HF, no calcium fluoride (CaF2) would be produced?

Response: NIRS/PC cannot respond to this Request, which is unclear, and so deny that it is correct. Conversion of DUF6 to DU3O8 is not carried out by upgrading HF to anhydrous HF. If the Request refers to post-conversion treatment of HF byproduct by rendering it anhydrous, presumably no CaF2 is intended to be produced at that stage.

Template = SECY-035

SECY-02

REQUEST FOR ADMISSION NO. 2:

> Do you admit that if the DUF6 is converted to U3O8 only by upgrading the HF product to anhydrous HF, no magnesium fluoride (MgF2) would be produced?

Response: NIRS/PC cannot respond to this Request, which is unclear, and so deny that it is correct. Conversion of DUF6 to DU3O8 is not carried out by upgrading HF to anhydrous HF. If the Request refers to post-conversion treatment of HF byproduct by rendering it anhydrous, presumably no MgF2 is intended to be produced at that stage.

REQUEST FOR ADMISSION NO. 3:

> With respect to basis (f) of your Ground and Surface Water Impacts Contention, do you admit that if there is no detectable groundwater in the alluvium beneath the LES site, its absence would mean there has been no transport of water from the surface of the LES site to the top of the Chinle Formation in the last 100 years? in the last 1000 years ?

Response: NIRS/PC do not admit the matters stated in this request. NIRS/PC are still reviewing documents related to the presence of groundwater at the proposed NEF site. The documents reviewed thus far (Environmental Report and Safety Analysis Report, Rev. 2) do not provide sufficient information to determine whether alluvial groundwater exists at the site.

However, even if alluvial groundwater does not currently exist, it may occur intermittently (e.g., in response to heavy storms). The moisture detected in two borings at the site[1] may indicate that the alluvium is periodically wetted. In addition, the detection of a pesticide in MW-2[2] may indicate that water has moved from the surface to the top of the Chinle, and then into the Chinle.

Thus, NIRS/PC do not agree with the contention that water has not moved from the surface through the alluvium to the top of the Chinle Formation in the last 100 to 1000 years.

REQUEST FOR ADMISSION NO. 4:

> Do you admit that DOE has analyzed the environmental impacts of construction and operation of a plant designed to convert DUF_6 to U_3O_8 in the following documents: "Final Programmatic Environmental Impact Statement for Alternative Strategies for the Long-Term Management and Use of Depleted Uranium Hexafluoride" (DOE/EIS-0269); "Final Environmental Impact Statement for Construction and Operation of a Depleted

[1] Louisiana Energy Services, ER, Rev. 2, at 3.4-2. The logger reported "slightly moist" cuttings from depths of 6 – 14 feet. Also, the clay at the bottom of boring B-2 was reported to be "moist" (Louisiana Energy Services, Safety Analysis Report, Fig. 3.2-11).

[2] Louisiana Energy Services, ER, Rev. 2, at 3.4-8.

Uranium Hexafluoride Conversion Facility at the Paducah, Kentucky Site" (DOE/EIS-0359); and "Final Environmental Impact Statement for Construction and Operation of a Depleted Uranium Hexafluoride Conversion Facility at the Portsmouth, Ohio, Site" (DOE/EIS-0360).?

Response: NIRS/PC admit that the Environmental Impact Statements referred to have been issued but deny that they contain all required environmental analyses with respect to the proposed LES facility. DOE/EIS-0269 is a programmatic-level study that does not consider the impacts of a specific facility. DOE/ES-0359 and -0360 both address a process that LES has decided not to employ—the HF neutralization process. (See LES Answer to Petitions of New Mexico Attorney General and NIRS/PC (May 3, 2004), at 72). Further, DOE/ES-0359 and -0360 address construction and operation of conversion facilities located near existing storage areas for Department of Energy DUF6 and do not consider conversion facilities at other locations that might be designed to serve private enrichment facilities. In addition, DOE/ES-0359 and -0360 involve conversion facilities that would be significantly larger in scale than a conversion facility designed to serve the needs of the proposed LES facility. For these and other reasons, the documents do not discuss all of the relevant impacts.

REQUEST FOR ADMISSION NO. 5:

Do you admit that in Section 2.2.5 of DOE/EIS-0359, and in Section 2.2.7 of DOE/EIS-0360, DOE addresses the option of expanding DUF6 conversion facility operations?

Response: NIRS/PC admit that the designated sections mention possible expansions of operations of conversion plants that are planned to serve DOE storage sites and to use processes which are different from the process chosen by LES.

REQUEST FOR ADMISSION NO. 6:

Do you admit that the environmental impacts of a private conversion facility constructed and operated to convert the DUF6 at LES would be bounded by the DOE environmental documents listed in Request 4 above?

Response: NIRS/PC do not admit that this statement is correct, inter alia, because the two documents referred to discuss a process different from that selected by LES, carried out at a different location than could be the site of a private conversion plant and at a different scale.

REQUEST FOR ADMISSION NO. 7:

Do you admit that a private conversion facility constructed and built to accept DUF6 from LES would use the same conversion process proposed to be used in the DOE facility; i.e., a continuous dry-conversion process based on the commercial

process used by Framatome Advanced Nuclear Power, Inc. fuel fabrication facility in Richland, Washington?

Response: NIRS/PC do not admit that this statement is correct, inter alia, because the environmental impact statements concerning the planned DOE facilities discuss a process different from that selected by LES.

REQUEST FOR ADMISSION NO. 8:

Do you admit that in 2002, out of the 11.5 million SWU's purchased by U.S. nuclear reactors, only 1.7 million of these SWU's were provided by uranium enrichment plants located in the United States?

Response: NIRS/PC are still continuing research into the subject matter of this request and therefore are constrained to deny this request at this time. NIRS/PC have identified a statement in the report by the Energy Information Administration, based on Form EIA-858 submittals, to the effect that (a) total purchases of SWU by owners and operators of U.S. civilian nuclear reactors in 2002 were 11,492,000 SWU and (b) such purchases originating in the United States were 1,690,000 SWU.

REQUEST FOR ADMISSION NO. 9

Do you admit that, if the Commission determines DUF6 to be low level radioactive waste, DOE disposal would be a plausible strategy?

Response: NIRS/PC do not admit that this statement is correct; it is not clear what is meant by "DOE disposal," and a determination that DUF6 constitutes low-level radioactive waste would require the Commission to examine the proposed conditions of disposal, which the Commission has not done. Further, the disposal method is not stated in the Request. Whether a method of disposal could be considered "plausible" can only be stated after a full analysis of the proposed disposal method and its projected performance.

The foregoing responses are true and correct to the best of my knowledge.

Michael Mariotte
Executive Director
Nuclear Information and Resource Service

District of Columbia : SS
Subscribed and Sworn to before me
this 20th day of September, 2004
Kamal Khan
Notary Public, D.C.
My commission expires [illegible]
NOTARY PUBLIC
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My Commission Expires 2/14/08

Respectfully submitted,

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September 20, 2004

CERTIFICATE OF SERVICE

Pursuant to 10 CFR § 2.305 the undersigned attorney of record certifies that on September 20, 2004, the foregoing Responses on Behalf of Petitioners Nuclear Information and Resource Service and Public Citizen to Requests for Admissions by Commission Staff was served by electronic mail and by first class mail upon the following:

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