



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

September 27, 2004

DOCKETED
USNRC

October 14, 2004 (1:00PM)

SECRETARY

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

The Honorable Bill Richardson
Governor of New Mexico
Santa Fe, New Mexico 87501

SERVED October 14, 2004

Dear Governor Richardson:

Docket No. 70-3103-ML

I am responding to your letter dated August 27, 2004, addressed to Chairman Nils J. Diaz, regarding the Nuclear Regulatory Commission's (NRC's) review of the license application of Louisiana Energy Services, L.P. (LES) to construct and operate a National Enrichment Facility in Eunice, New Mexico. In your letter you request that Chairman Diaz meet with New Mexico Environment Department (NMED) Secretary Ron Curry to discuss the State's concerns.

The Commission has an adjudicatory role in the LES proceeding pursuant to NRC regulations. The Commission is currently reviewing a motion that NMED filed on September 3, 2004, requesting reconsideration of the Commission's August 18, 2004, decision denying the admission of a contention proposed by NMED. The Commission is also considering the September 14, 2004, decision issued by the Atomic Safety and Licensing Board regarding NMED's request to participate in the LES proceedings as an interested governmental entity under 10 CFR § 2.315(c) rather than a 10 CFR § 2.309 party to the proceeding. I trust that you will understand that because of the Commissioners' roles as adjudicators in this case, it would be inappropriate for Chairman Diaz or other Commissioners to discuss or comment on issues involved in this adjudication.

Although the Commissioners will not meet with NMED, senior NRC staff is prepared to meet with Mr. Curry. Please have Mr. Curry contact Robert Pierson, Director of Fuel Cycle Safety and Safeguards in the Office of Nuclear Material Safety and Safeguards, at 301-415-7213 to schedule a meeting. A copy of your letter and this response will be served on the participants in the LES proceeding.

Sincerely,

A handwritten signature in black ink, appearing to read "Annette Vietti-Cook".

Annette L. Vietti-Cook
Secretary of the Commission

cc: LES Service List



State of New Mexico

Office of the Governor

Bill Richardson
Governor

August 27, 2004

The Hon. Nils Diaz
Chairman
Nuclear Regulatory Commission

Dear Chairman Diaz:

I am writing to express, in the strongest terms, my concern that the Nuclear Regulatory Commission (NRC) has decided not to allow consideration of important issues raised by the New Mexico Environment Department (NMED) in the review of the nuclear enrichment facility proposed for Eunice, New Mexico.

This decision deprives the State of New Mexico of an important opportunity to assure that critical environmental and national security issues, such as the management and disposal or deconversion of wastes from the facility and the adequacy of proliferation safeguards related to foreign ownership, receive comprehensive analysis in the review process. The NRC's decision on this procedural matter prevents the State from commenting on and influencing license requirements, bonding for closure and removal of wastes, and other major issues. Such a decision, particularly on procedural grounds, is regrettable, and may indicate absurdly misplaced emphasis and content in the NRC's own regulatory process.

As significantly, the NRC decision deprives the NRC of state information and involvement that by all rights should be considered crucial to its decision process. A recent US Circuit Court decision regarding the Yucca Mountain proposal supports the argument that governmental agencies deserve standing and deference in such proceedings, and I believe the NRC puts its own decisionmaking and the LES project in peril by ignoring this precedent.

I hereby request that you meet with NMED Secretary Ron Curry to discuss the State's concerns regarding the NRC decision.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Richardson".

Bill Richardson
Governor

cc: Secretary Ron Curry, NMED

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)

LOUISIANA ENERGY SERVICES, L.P.)

Docket No. 70-3103-ML

(National Enrichment Facility))

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LETTER FROM ANNETTE L. VIETTI-COOK TO GOVERNOR BILL RICHARDSON 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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Washington, DC 20555-0001

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Docket No. 70-3103-ML
LETTER FROM ANNETTE L. VIETTI-COOK
TO GOVERNOR BILL RICHARDSON

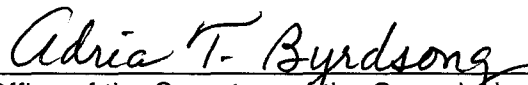
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Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 14th day of October 2004