

**RAS 9048**

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

**DOCKETED 12/23/04**  
**SERVED 12/23/04**

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

December 23, 2004

**MEMORANDUM AND ORDER**  
**(Regarding Scheduling and Outline Summaries)**

Pursuant to the Licensing Board's December 7, 2004 memorandum and order requesting scheduling information from the parties regarding the upcoming February 2005 evidentiary hearing in this proceeding, on December 14, 2004, the parties submitted a joint report outlining their current estimate as to the order in which they propose we hear the contentions and how much time each of the four contentions will require. The parties propose in their report that the Board retain Friday, February 11, 2005, as an "overflow" day in anticipation that additional time may be required to address adequately various contentions.

The Board agrees that, in the efficient use of time and resources, some scheduling flexibility should be retained as certain contentions may require more or less time than anticipated at this juncture. In this vein, because of the uncertainties inherent in attempting to predict the time required for litigation, the parties should be prepared both to accelerate the hearing schedule as well as to accommodate any extensions, and should plan, in any event, that hearings will be conducted on February 11. In addition, the parties should plan for the possibility that a particular daily hearing schedule might be extended into the early evening if

such an extension would facilitate completion of a particular contention or topic. Moreover, so that the Board might better understand the basis for the parties' planning assumptions, we request that at the time they submit their pre-filed direct testimony, each party provide us with a separate filing outlining and providing reasons for the potential unavailability of any witness on a particular hearing day during the February 7-16, 2005 period.

Additionally, the Board advises the parties that it currently is contemplating holding 10 C.F.R. § 2.315(a) limited appearance sessions in the Eunice-Hobbs, New Mexico area on Saturday, February 12, 2005. The Board will provide the parties and the public with details on the location and timing of these sessions, as well as the evidentiary hearing sessions, after the first of the year.

Finally, we take this opportunity to address another hearing-related issue. The Board's August 16, 2004 memorandum and order calls for the parties, at the same time they submit their cross-examination plans, to file brief bulleted outlines summarizing their respective positions on the issues, including key points of witness testimony and the relief and/or determinations sought.<sup>1</sup> The Board further noted in its August 16 memorandum and order that it would provide the parties with a example of such an outline summary. It does so here (see Attachment A) using an obviously whimsical subject matter to illustrate the point that in addressing each environmental contention individually, each party's outline should provide a very concise synopsis of the matters at issue and the relief requested from the party's

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<sup>1</sup> Attachment A to the August 16 memorandum and order originally set the date for filing outline summaries as January 26, 2005, but our December 15, 2004 memorandum and order modified this schedule slightly to accommodate anticipated motions in limine to the prefiled testimony for the upcoming evidentiary hearing. The Board again revised the schedule in its December 21, 2004 memorandum and order and outline summaries should be filed in accordance with that schedule. See Licensing Board Memorandum and Order (Ruling on Motion to Suspend Hearing Schedule) (Dec. 21, 2004) at 4 (unpublished).

perspective. We also would note that, in contrast to cross-examination plans, a party's outline should be served on all other parties.

It is so ORDERED.

FOR THE ATOMIC SAFETY  
AND LICENSING BOARD<sup>2</sup>

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G. Paul Bollwerk, III  
ADMINISTRATIVE JUDGE

Rockville, Maryland

December 23, 2004

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<sup>2</sup> Copies of this memorandum and order were sent this date by Internet e-mail transmission to counsel for (1) applicant Louisiana Energy Services, L.P.; (2) intervenors New Mexico Environment Department, the Attorney General of New Mexico, and Nuclear Information and Resource Service/Public Citizen; and (3) the NRC staff.

## ATTACHMENT A

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

In the Matter of

MISSIONS TO THE MOON, INC.

Docket No. 00-0000

ASLBP No. 00-000-00

**EXAMPLE OUTLINE SUMMARY RE HYPOTHETICAL CONTENTION**

MM CONTENTION A: MOON IS MADE OF GREEN CHEESE

- Urey's  $\alpha$ -particle test results consistent with green cheese
- Astronaut landed on rind
- Expert B.G. McCheese: Reports of surface similar to rind (Pre-filed Testimony at 36)
- Halo around moon consistent with emanations from green cheese
- Expert I.C. Starrs: Optical properties consistent (Pre-filed Testimony at 27)
- Opposing Party position "Moon is Rock" unsupported:
  - Astronauts found no rocks
  - No rocks observed orbiting moon
  - Opposing party "expert" never tasted green cheese (Starrs Pre-filed Rebuttal Testimony at 42)
- Opposing Party Position re economics beyond scope
- Environmental impact from lightened moon minimal (Starrs Prefiled Testimony at 45)
  - Orbit decay 1,525,416 years distant
  - Likely impact: Rain of breadless grilled cheese sandwiches
- Relief requested: Moon to be opened to Homestead Act Mining Claims

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of )  
 )  
LOUISIANA ENERGY SERVICES, L.P. ) Docket No. 70-3103-ML  
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(National Enrichment Facility) )

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB MEMORANDUM AND ORDER (REGARDING SCHEDULING AND OUTLINE SUMMARIES) 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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Docket No. 70-3103-ML  
LB MEMORANDUM AND ORDER  
(REGARDING SCHEDULING AND  
OUTLINE SUMMARIES)

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[Original signed by Adria T. Byrdsong]

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Office of the Secretary of the Commission

Dated at Rockville, Maryland,  
this 23rd day of December 2004