

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

DOCKETED 09/22/05

SERVED 09/22/05

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

September 22, 2005

MEMORANDUM AND ORDER
(Additional Administrative Matters)

Upon consideration of the September 16, 2005 submission of (1) the prefiled direct testimony by applicant Louisiana Energy Services, L.P. (LES), intervenors Nuclear Information and Resource Service and Public Citizen (NIRS/PC), and the NRC staff; and (2) these parties' September 20, 2005 joint report regarding what portions of the October 2005 evidentiary could be held in open session, the Licensing Board provides the following clarification and guidance regarding certain administrative matters related to the October 2005 evidentiary hearing:

1. Content of Exhibit Lists; Identifying Exhibits Associated with a Witness/Panel. When compiling their exhibit lists in accordance with section A.4 of the Board's September 14, 2005 administrative order, see Licensing Board Memorandum and Order (Regarding Administrative Matters Relative to October 2005 Evidentiary Hearing) (Sept. 14, 2005) (unpublished) [hereinafter September 14 Order], the parties should include in that list all exhibits they intend to rely upon to support their affirmative case in conjunction with the upcoming evidentiary hearing, regardless of whether those exhibits have been previously identified/admitted in connection with the February 2005 hearing. Thus, the parties should list all of the exhibits they intend to rely

upon at the upcoming hearing (in the manner set forth in sections A.3.b and A.4 of that order), although they need not produce hard copies of those previously-identified/admitted exhibits to the Board or other counsel. For example, if the staff intends to rely upon exhibits Staff 2 and 6, as identified in the February 2005 hearing, in support of their direct case in this phase of the proceeding, they should list each of those documents in addition to any newly-identified exhibits, but need not provide actual copies of Staff 2 and 6 to the Board members or other counsel.

Further, when completing the “witness/panel” field in its exhibit list, each party should identify the name(s) of the witness/panel that will first identify/introduce the exhibit in conjunction with its testimony, even if the exhibit may be referred to by more than one witness/panel. Likewise, when completing the “witness/panel” field of the exhibit stamp the Board provided to the parties in accordance with section B.2 of the September 14 administrative order, the parties should provide the name(s) of the witness/panel that will first identify/introduce that exhibit.

2. Status of Closed/Open Hearing Sessions. After reviewing the parties’ September 20 joint report regarding the issues and subject areas that could be discussed in open session during the October evidentiary hearings, the Board finds that for three of the four identified subject matter areas, the majority of the direct testimony that the parties have indicated is nonproprietary is so intertwined with the testimony for which LES has claimed protected status that it would be impractical for the Board to hold open sessions on those subject areas. Accordingly, the Board will begin with an open session during which each of the parties will have an opportunity to make a brief opening statement. Presentations on the first three identified subject areas -- plausibility and estimated cost of deconversion of depleted uranium (DU), estimated costs of transportation of DU, and plausibility and estimated cost of disposal of

DU -- will be conducted in closed session and in the sequence previously identified by the Board, see September 14 Order at 1-2. Presentations on the fourth identified subject area -- contingency factor applied by LES to the overall DU dispositioning cost estimate -- will be conducted in open session directly following the conclusion of these closed sessions.¹

3. Discussions Regarding Mandatory Hearings. As a related matter, the Board intends at the conclusion of all party presentations relative to the remaining contested matters in this proceeding (i.e., immediately following the conclusion of the presentation of testimony and evidence relative to the contingency factor) to hold an brief open session to begin a dialogue with LES and the staff regarding the mandatory hearings. The Board will provide LES and the staff with additional information regarding the anticipated substance of that discussion as the time for the October 2005 evidentiary hearing approaches.

4. Daily Hearing Schedule. For planning purposes, the Board currently contemplates that evidentiary hearing sessions on the first day, Monday, October 24, 2005, will begin at 9:30 a.m. Thereafter, each daily session will begin at 9:00 a.m. In addition, as the Board

¹ In this regard, notwithstanding the notation in the September 20 joint report that all the direct testimony on this subject is nonproprietary, the NIRS/PC prefiled direct testimony is marked as "Protected Material" on each page. Under the circumstances, NIRS/PC should be prepared at a future date to be specified by the Board once any in limine motions are resolved to resubmit this testimony without that label.

stated in section A.1 of its September 14 order, the parties should plan for the possibility that a particular daily hearing schedule might be extended into the early evening.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD²

/RA/

G. Paul Bollwerk, III
ADMINISTRATIVE JUDGE

Rockville, Maryland

September 22, 2005

² Copies of this memorandum and order were sent this date by Internet e-mail transmission to counsel for (1) applicant LES; (2) intervenors NIRS/PC; and (3) the staff.

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB MEMORANDUM AND ORDER (ADDITIONAL ADMINISTRATIVE MATTERS) 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
(ADDITIONAL ADMINISTRATIVE MATTERS)

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[Original signed by Adria T. Byrdsong]

Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 22nd day of September 2005