

DOCKETED
USNRC

September 23, 2005 (8:15am)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

)
)
)
)
)

Docket No. 70-3103-ML

ASLBP No. 04-826-01-ML

I. INTRODUCTION

³ LES reserves its right, pursuant to 10 C.F.R. § 2.704(c)(3), to object to the admissibility of any exhibits or other documents identified by NIRS/PC in connection with the submittal of its prefiled testimony of September 16, 2005.

deploying COGEMA deconversion technology in the United States), and (2) the first subpart of Contention NIRS/PC EC-5/TC-2 (regarding the adequacy of the contingency factor applied by LES to its overall depleted uranium ("DU") dispositioning cost estimate).⁴

II. BACKGROUND

On September 16, 2005, in accordance with the Board's September 2nd Order, LES, NIRS/PC, and the NRC Staff submitted prefiled direct testimony on issues pertaining to LES's strategy and associated cost estimate for the commercial dispositioning of DU from the proposed National Enrichment Facility ("NEF"). The parties submitted that testimony in connection with admitted Contentions NIRS/PC EC-3/TC-1 (Depleted Uranium Hexafluoride Storage and Disposal), NIRS/PC EC-5/TC-2 (Decommissioning Costs), and NIRS/PC EC-6/TC-3 (Costs of Management and Disposal of Depleted Uranium). In the September 2nd Order, the Board also directed the parties to submit any motions in limine concerning the prefiled testimony by September 22, 2005. Finally, the Board, which declined to rule on a dismissal motion filed by LES on August 31, 2005, indicated that LES could submit, if appropriate, a renewed dismissal motion at the time it filed any motion in limine. Consistent with the Board's directives; LES submits this consolidated motion in limine and renewed motion to dismiss.

III. ARGUMENT IN SUPPORT OF MOTION IN LIMINE

A. Legal Standards Governing the Admissibility of Evidence in NRC Proceedings

NRC regulations governing the admission of evidence provide that "[o]nly *relevant, material, and reliable* evidence which is not unduly repetitious will be admitted. Immaterial or irrelevant parts of an admissible document will be segregated and excluded so far as is practicable." 10 C.F.R. § 2.337(a) (emphasis added). "Relevant" information is

⁴ See "Motion on Behalf of Louisiana Energy Services, L.P. to Dismiss and/or Narrow the Scope of NIRS/PC Contentions" (Aug. 31, 2005) ("LES Dismissal Motion").

information that has some "legal probative value," *i.e.*, that tends to prove or disprove a fact that is of consequence to the legal outcome of the case.⁵ In this regard, the Commission has emphasized that "[its] own longstanding practice requires adjudicatory boards to adhere to the terms of admitted contentions,"⁶ and that "[w]here an issue arises over the scope of an admitted contention, NRC opinions have long referred back to the bases set forth in support of the Intervenor's original contention."⁷ Accordingly, where a party presents testimony on issues that are outside the scope of any admitted contention, that testimony should be stricken, particularly where, as here, the Board has explicitly excluded such arguments as inadmissible.

B. Bases for Striking Certain Portions of Dr. Makhijani's Direct Testimony

In his prefiled direct testimony, Dr. Makhijani raises numerous issues that should be excluded because they exceed the scope of the admitted NIRS/PC contentions and contravene prior Board rulings in this proceeding. Moreover, much of the testimony is "unduly repetitious" insofar as Dr. Makhijani raises the *same* inadmissible issues in disparate pieces of his testimony. The issues identified below have no place in this proceeding, and to the extent Dr. Makhijani raises such issues, his testimony should accordingly be stricken.⁸ The specific questions and answers (or portions thereof) that LES seeks to have stricken from Dr. Makhijani's prefiled direct testimony are identified in Section III.C, *infra*. LES also is providing a "red-lined" version of

⁵ See, e.g., FED. R. OF EVID. 401; *United States v. Hall*, 653 F.2d 1002, 1005 (5th Cir. 1981).

⁶ *Louisiana Energy Services, L.P.* (Claiborne Enrichment Center), CLI-98-3, 47 NRC 77, 105 (1998) (citation omitted).

⁷ See *Duke Energy Corporation* (McGuire Nuclear Station, Units 1 and 2; Catawba Nuclear Station, Units 1 and 2), CLI-02-28, 56 NRC 373, 379 (2002) (citation omitted).

⁸ As stated above, and set forth more fully below, LES is renewing its earlier request to dismiss Contention NIRS/PC EC-3/TC-1 and Subpart 1 of Contention NIRS/PC EC-5/TC-2. If the Board grants LES's renewed request, then any NIRS/PC testimony potentially relevant to those specific issues would be rendered immaterial.

Dr. Makhijani's testimony to the Board and other parties via overnight delivery (due to the designation of that testimony as protected material).

1. *The "Performance History" of Third Parties is Not an Admissible Issue*

In his direct testimony, Dr. Makhijani maintains that, to establish that it has a plausible strategy for dispositioning DU, LES must "demonstrate that the parties involved are, technologically and scientifically competent to do the job and have practical, real-world experience in performing similar actions." *See* Makhijani Deconversion Testimony at 7. According to Dr. Makhijani, this requires an evaluation of each party's "track record." *Id.* Dr. Makhijani also extends this argument to the reasonableness of any associated LES cost estimate, stating that "a cost estimate must be evaluated in the context of the past operational experience of the company undertaking the task, as well as their [sic] record of cost estimation and living up to their contractual agreements." *Id.* at 8. In cases involving entities with poor track records, which purportedly include the Department of Energy ("DOE"), Dr. Makhijani posits that a fully licensed and operating plant, and/or a firm and binding contract, should be required for purposes of LES's plausibility and cost demonstrations. *Id.* at 7-8.

None of the contentions admitted in this proceeding demands an inquiry into the performance histories or capabilities of third parties -- commercial or governmental. Indeed, NIRS/PC have previously raised such concerns with respect to the DOE and Waste Control Specialists, LLC ("WCS"), and the Board has summarily rejected those arguments.⁹ In addition, to the extent Dr. Makhijani suggests that LES must enter into contracts, or demonstrate the licensability and operability of a specific deconversion or disposal facility at this juncture, he

⁹ *See, e.g., Louisiana Energy Servs., L.P. (National Enrichment Facility)*, LBP-04-14, 60 NRC 40, 54-58 (2004); *See also* Memorandum and Order (Ruling on NIRS/PC Late-Filed Contention Amendments) (June 30, 2005) (unpublished) at 10 ("June 2005 Ruling on Late-Filed Contentions").

disregards the Commission's clear direction that a plausible strategy "does not mean a definite or certain strategy, to include completion of all necessary contractual arrangements."¹⁰

2. *Evaluation of the Depleted UO₂ Disposal Form is Not an Admissible Issue*

Dr. Makhijani also raises issues relative to the ultimate disposal form of DU from the NEF. Dr. Makhijani states, for example, that, "a possible waste form that should be examined for the ultimate disposition of depleted uranium is the encapsulation of DUO₂ in an engineered ceramic." See Makhijani Deconversion Testimony at 18. The Board, however, has made clear that the question of whether DUF₆ should be deconverted to the UO₂ form (as opposed to the U₃O₈ form proposed by LES) is not an admissible issue in this proceeding.¹¹ To the extent Dr. Makhijani persists in raising this issue, his testimony should be stricken.

3. *Alleged Currency Exchange Rate Uncertainties, Emerging Uranium Health Risks, and Licensing Delays Are Not Admissible Issues*

NIRS/PC have raised on multiple occasions in the past the issues of currency exchange rate fluctuations, "emerging evidence" of uranium health risks, and licensing delays.¹² This Board has consistently rejected the admission of those issues on both timeliness and admissibility grounds.¹³ Notably, with respect to the issue of exchange rate uncertainties, the Board has stated unequivocally that "the NIRS/PC concern about currency conversion [] appears

¹⁰ *Louisiana Energy Servs., L.P.* (National Enrichment Facility), CLI-04-25, 60 NRC 223, 226 (2004).

¹¹ See, e.g., Memorandum and Order (Ruling on in Limine Motions Regarding Prefiled Direct and Rebuttal Testimony and Providing Administrative Directives) (Feb. 4, 2005) at 3-4 (unpublished) (rejecting earlier NIRS/PC prefiled testimony that "relate singularly to the proposition that LES must analyze deconversion into the UO₂ form, a proposition that this Board has previously rejected on more than one occasion, most recently in our January 21 order").

¹² See, e.g., "Motion on Behalf of Intervenors Nuclear Information and Resource Service and Public Citizen for Admission of Late-Filed Contentions Concerning Dispositioning Cost Estimates" (May 16, 2005) at 8, 23; "Motion on Behalf of Intervenors Nuclear Information and Resource Service and Public Citizen for Admission of Additional Bases for Late-Filed Contentions Concerning Dispositioning Cost Estimates" (May 20, 2005) at 6-7.

¹³ See June 2005 Ruling on Late-Filed Contentions, at 13 n.13.

to lack materiality given the parties' indication in their May 23 joint report that they intend to provide dispositioning costs in 2004 dollars."¹⁴ Moreover, the Board has found Intervenor's argument regarding licensing delays similarly to lack materiality, and Intervenor's argument regarding uranium health risks to be an improper challenge to the Commission's radiation protection regulations (*i.e.*, 10 C.F.R. Part 20).¹⁵ Thus, any NIRS/PC testimony concerning these issues clearly exceeds the scope of the admitted contentions at issue and should be stricken.

4. *The Adequacy of the DOE Cost Estimate is Not an Admissible Issue*

In his direct testimony, Dr. Makhijani also attempts to contest the adequacy of DOE's estimated cost for dispositioning DU from the NEF pursuant to DOE's statutory authorities. Such testimony is inadmissible in view of the Board's August 2005 ruling on late-filed contentions. In that decision, the Board rejected a proposed NIRS/PC contention amendment that challenged the adequacy of the DOE cost estimate, and referred its admissibility ruling to the Commission pursuant to 10 C.F.R. § 2.323(f).¹⁶ Accordingly, the adequacy of the DOE cost estimate is not an issue in this proceeding, and certainly should not be litigated absent a contrary decision from the Commission. In any event, the crux of Dr. Makhijani's testimony on this issue is that the DOE cost estimate is inadequate in view of the lack of a "firm offer" from DOE, and DOE's "long history of poor management, technical problems, and cost over runs." *See Makhijani Deconversion Testimony at 20.* Those supporting arguments, however, are inadmissible for the reasons stated above.

¹⁴ *See id.*

¹⁵ *See id.*

¹⁶ *See Memorandum and Order (Ruling on Motion to Admit Late-Filed Amended and Supplemental Contentions) (Aug. 4, 2005), at 21-22 ("August 2005 Ruling on Late-Filed Contentions").*

5. *The Viability of WCS and Envirocare as Disposal Sites for Depleted Uranium is Not an Admissible Issue*

Much of Dr. Makhijani's prefiled direct testimony is devoted to the purported "unacceptability" of the WCS and Envirocare sites for disposal of DU from the proposed NEF. Dr. Makhijani's testimony, in this regard, essentially mirrors arguments made by NIRS/PC in support of previously proposed -- and *rejected* -- late-filed contentions. With respect to the WCS site in particular, the Board has stated unequivocally that "the sufficiency of the [WCS] application before the Texas Commission on Environmental Quality (TCEQ) [is] a matter that is outside the Board's jurisdiction and, therefore, outside the scope of this proceeding."¹⁷ Relative to the Envirocare site, the Board found that NIRS/PC failed to raise a genuine material dispute, insofar as their proposed contention's supporting bases impermissibly challenged the Commission's regulations for land disposal of low-level radioactive waste (*i.e.*, 10 C.F.R. Part 61) and lacked adequate factual or expert opinion support.¹⁸ The Board has referred to the Commission the issue of "the extent to which the viability of either the WCS or Envirocare facility as a disposal site is a litigable issue in this proceeding."¹⁹ Absent a contrary decision from the Commission, any NIRS/PC attempt to litigate the viability of either WCS or Envirocare as a disposal site for DU through the prefiled testimony of Dr. Makhijani is improper.

C. Identification of Specific Portions of Dr. Makhijani's Testimony to Be Stricken

For the reasons set forth above, LES submits that the following portions of Dr. Makhijani's prefiled direct testimony should be stricken:

¹⁷ See *id.* at 12.

¹⁸ See *id.* at 12-13.

¹⁹ *Id.* at 13.

1. *Makhijani Deconversion Testimony*

The following portions of Answer 4 (pages 7-8) should be stricken on the basis that they raise issues related to the "performance" histories of third parties and other inadmissible issues. *See* § III.B.1, *supra*: (1) the two full paragraphs on page 7; and (2) the language on page 8, beginning with "Similar to the consideration" through the end of page 8.

The entirety of Question and Answer 8 should be stricken on the basis that asserted need to consider disposal of DU as DUO_2 is outside the scope of the admitted contentions (*see* § III.B.2, *supra*). Furthermore, it is irrelevant to LES's deconversion strategy and associated cost estimate.

The following portions of Answer 9 should be stricken because they relate to the inadmissible issues of currency exchange rate uncertainties, uranium health risks, and disposal of DU as DUO_2 (*see* §§ III.B.2 & B.3, *supra*), which, in turn, are irrelevant to LES's commercial deconversion strategy and associated cost estimate: (1) the first three sentences of Answer 9 (pages 18-19) beginning "[w]hen DU" and ending "per kilogram of uranium"; (2) the two rows (*i.e.*, the cost element description and associated cost figures) labeled "Exchange Rate Conversion for 5.50 euro (1.3 dollars per euro)" and "Contingency - U risk (19 percent)" in the table on page 19; and (3) notes 1 and 2 below the table on page 19.

The entirety of Question and Answer 10 should be stricken on the grounds that they seek to challenge the adequacy of the DOE cost estimate and rely on arguments pertaining to the performance history of the DOE. These issues, which the Board has previously rejected as inadmissible (*see* §§ III.B.1 & B.4, *supra*), are irrelevant to LES's commercial deconversion strategy and associated cost estimate for DU dispositioning.

2. *Makhijani Transportation Testimony*

The same inadmissible statements identified above in connection with Answer 4 of the Makhijani Deconversion Testimony appear in Answer 4 (pages 7-8) of the Makhijani Transportation Testimony. Dr. Makhijani's testimony should likewise be stricken for the reasons discussed above. *See* § III.C.1, *supra*. In addition, the following portion of Answer 5 (pages 9-10) should be stricken on the ground that it concerns DU disposal issues that are irrelevant to LES's DU transportation cost estimate: the entire discussion beginning "LES and the NRC Staff" on page 9 and ending "as industrial waste." on page 10. Finally, Question and Answer 8 are identical to Question and Answer 9 of the Dr. Makhijani's testimony on deconversion issues, and therefore, the same inadmissible statements identified above should be stricken from Dr. Makhijani's testimony on transportation cost issues. *See* § III.C.1, *supra*.

3. *Makhijani Disposal Testimony*

Answer 4 (pages 7-8) of the Makhijani Disposal Testimony contains the same inadmissible statements identified above in connection with Answer 4 of the Makhijani Deconversion Testimony and likewise should be stricken for the reasons discussed above. *See* § III.C.1, *supra*.

The entirety of Question and Answer 8 (pages 17-19) should be stricken on the basis that they relate to the purported "chemical toxicity" of DU and "emerging evidence regarding uranium health risks." These issues are beyond the scope of the admitted NIRS/PC contentions. *See* § III.B.3, *supra*.

The entirety of Questions and Answers 9 through 13 (pages 19-45) should be stricken in their entirety on the ground that they seek to challenge the viability of the WCS and/or Envirocare sites as disposal sites for DU from the proposed NEF. Such challenges are

inadmissible in view of the Board's August 4, 2005 ruling on admissibility of late-filed contentions. *See* § III.B.5, *supra*.

The following portions of Answer 14 should be stricken on the same basis as Questions and Answers 9 through 13: (1) the first several paragraphs of Answer 14, beginning "[i]n their June 30, 2005 ruling" on page 46 through the sentence ending "of depleted uranium" on page 47; and (2) the last two sentences of Answer 14, beginning "[a]s I have" on page 48 and ending "cost of disposal" on page 49.

The last paragraph of Answer 17 (beginning "[a]s I have testified" on page 56) should be stricken to the extent it raises issues related to environmental impacts analysis, licensing delays, uranium health risks, and contingency factors. These issues are inadmissible and/or irrelevant to the proper subject matter of the testimony.

The entirety of Question and Answer 18 (pages 56-57) should be stricken on the basis that they relate to the disposal of DU as DUO₂, an issue that is outside the scope of any admitted contention. *See* § III.B.2, *supra*.

The entirety of Question and Answer 19 (pages 58-59) should be stricken on the ground that they pertain to issues that are irrelevant to LES's DU disposal strategy and cost estimate, and/or are inadmissible in view of prior Board rulings in this proceeding. Specifically, Answer 19 contains discussion of, and references to, uranium health risk contingencies, and contains DU dispositioning cost estimates that rest on the premise that DU from the NEF must be disposed of as DUO₂. The Board, however, has made it clear that the asserted need for disposal of DU as DUO₂ is not a litigable issue in this proceeding. *See* § III.B.2, *supra*.

The entirety of Question and Answer 20 should be stricken on the grounds that they seek to challenge the adequacy of the DOE cost estimate and rely on arguments pertaining

to the performance history of the DOE. The Board has previously rejected these issues as inadmissible. *See* §§ III.B.1 & B.4, *supra*.

4. *Makhijani Contingency Factor Testimony*

LES submits that the Makhijani Contingency Factor Testimony relative to the adequacy of the contingency factor applied by LES to its overall DU dispositioning cost estimate should be stricken in its entirety. In short, Dr. Makhijani's "contingency factor" testimony (which is merely a cumulative hodgepodge of his testimony on other issues) is rife with discussion of issues that are patently irrelevant to the adequacy of LES's contingency factor, and which have been excluded previously by this Board. These issues include the "usual suspects" -- *i.e.*, the "track record" of third parties (including the DOE), exchange rate uncertainties, uranium chemical toxicity and "emerging" health risks, licensing delays, disposal of DU as DUO₂, the viability of the WCS and Envirocare sites, and the adequacy of the DOE cost estimate. Indeed, even if the matter raised by Dr. Makhijani were admissible in this proceeding, they relate, at bottom, to the adequacy of LES's base cost estimate or to circumstances that would be more appropriately addressed (assuming they did occur) through the NRC's periodic update process to decommissioning costs. *See* 10 C.F.R. § 70.25(e). As such, they are irrelevant to the question of whether LES has applied an appropriate contingency factor to its cost estimate.

**IV. RENEWAL OF PRIOR LES MOTION TO DISMISS CONTENTION NIRS/PC
EC-3/TC-1 AND SUBPART 1 OF CONTENTION NIRS/PC EC-5/TC-2**

Based upon consideration of the September 16, 2005 prefiled direct testimony of NIRS/PC, and consistent with the Board's September 2nd Order, LES hereby renews, in part, its August 31, 2005 motion to dismiss and/or narrow the scope of certain NIRS/PC contentions. Specifically, LES requests that Board dismiss Contention NIRS/PC EC-3/TC-1 (which is supported only by Basis B) and Subpart 1 of Contention NIRS/PC EC-5/TC-2 on the ground that they fail to raise any genuine dispute as to a material issue of fact or law. LES refers the Board

to its earlier motion for a discussion of the applicable legal standards, and incorporates by reference the pertinent factual assertions and legal arguments set forth therein.

LES maintains that dismissal of the foregoing NIRS/PC issues is still warranted. With respect to Contention NIRS/PC EC-3/TC-1, even assuming, *arguendo*, that Dr. Makhijani's testimony regarding the "track records" of third party commercial entities is admissible, NIRS/PC have failed to furnish any testimony or affirmative evidence demonstrating that COGEMA is not "technologically and scientifically competent" or capable of "meeting its obligations." *See* Makhijani Deconversion Testimony at 7-8. Indeed, as to the technical plausibility of deploying COGEMA deconversion technology in the U.S. (*i.e.*, the sole issue raised in Contention NIRS/PC EC-3/TC-1), Dr. Makhijani testifies only as follows:

Based on Cogema's experience operating a similar deconversion plant in France (*i.e.*, the Pierrelatte plant) to that which would be required to handle the material from the proposed LES facility, reliance on Cogema for the deconversion option would be considered technologically plausible *once a siting process for the deconversion facility is specified by the NRC and provided that the final deconversion form chosen is U_3O_8 and not UO_2 .*

Makhijani Deconversion Testimony at 10-11 (emphasis added).

This scant testimony hardly suffices to establish, or even to suggest, the existence of a genuine factual dispute, particularly in view of Dr. Makhijani's recent deposition testimony that he "would accept Cogema for deconversion as a plausible strategy."²⁰ Dr. Makhijani provides no basis -- regulatory or otherwise -- for his assertion that the technical plausibility of the COGEMA deconversion option somehow hinges on the existence of an NRC-approved "siting process." Indeed, there is no regulatory requirement that LES now obtain NRC or state approval of a siting process for any future deconversion facility. Further, implicit in the statement "provided that the final deconversion form chosen is U_3O_8 and UO_2 " is the *inadmissible* argument that DU from the

²⁰ *See* LES Dismissal Motion, at 7 (quoting Arjun Makhijani July 21, 2005 Deposition, Tr. at 49-50).

NEF should be disposed of as DUO₂. In short, Dr. Makhijani's prefiled testimony reflects no change in the factual and legal landscape since LES filed its August 31 motion. Contention NIRS/PC EC-3/TC-1 still fails to raise a genuine material dispute and should accordingly be dismissed.

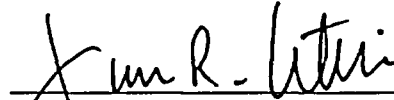
Similarly, the filing of Dr. Makhijani's prefiled direct testimony has not altered LES's position that the first subpart of Contention NIRS/PC EC-5/TC-2 should be dismissed. In fact, Dr. Makhijani's testimony relative to the contingency factor issue only serves to reinforce this view. As explained above, Dr. Makhijani's "contingency factor" testimony is nothing more than an agglomeration of his other testimony (on the deconversion, transportation, and disposal components of LES's DU dispositioning cost estimate), and relies wholly on inadmissible arguments. Moreover, setting those facts aside, Dr. Makhijani readily acknowledges that 25 percent is the contingency factor recommended by the Staff in NUREG-1757, and the factor which LES has explicitly committed to apply to its cost estimate. *See Makhijani Contingency Factor Testimony* at 23. Thus, for the same reasons set forth in its motion of August 31, 2005, LES seeks dismissal of the Subpart 1 of Contention NIRS/PC EC-5/TC-2.

V. CONCLUSION

For the reasons stated above, LES respectfully requests that the Board strike those portions of the prefiled direct testimony of NIRS/PC witness Dr. Arjun Makhijani specified above. Further, consistent with the regulations and the Commission's policy of administrative

efficiency, the Board should dismiss Contention NIRS/PC EC-3/TC-1 and Subpart 1 of Contention NIRS/PC EC-5/TC-2.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "James R. Curtiss", written over a horizontal line.

James R. Curtiss, Esq.

David A. Repka, Esq.

Martin J. O'Neill, Esq.

Amy C. Roma, Esq.

WINSTON & STRAWN LLP

1700 K Street, N.W.

Washington, DC 20006

(202) 282-5000

John W. Lawrence, Esq.

LOUISIANA ENERGY SERVICES, L.P.

100 Sun Avenue, NE

Suite 204

Albuquerque, NM 87109

Dated at Washington, District of Columbia
this 22nd day of September 2005

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

CERTIFICATE OF SERVICE

I hereby certify that copies of the "MOTION IN LIMINE AND RENEWED MOTION TO DISMISS ON BEHALF OF LOUISIANA ENERGY SERVICES, L.P. CONCERNING THE DIRECT TESTIMONY OF ARJUN MAKHIJANI AND CONTENTIONS NIRS/PC EC-3/TC-1 AND EC-5/TC-2" in the captioned proceeding has been served on the following by e-mail service, designated by **, on September 22, 2005 as shown below. Additional service has been made by deposit in the United States mail, first class, this 22nd day of September 2005.

Chairman Nils J. Diaz
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Commissioner Jeffrey S. Merrifield
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Office of the Secretary**
Attn: Rulemakings and Adjudications Staff
U.S. Nuclear Regulatory Commission
Mail Stop O-16C1
Washington, DC 20555-0001
(original + two copies)
e-mail: HEARINGDOCKET@nrc.gov

Commissioner Gregory B. Jaczko
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Commissioner Peter B. Lyons
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Office of Commission Appellate
Adjudication
Mail Stop O-16C1
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Office of the General Counsel**
Attn: Associate General Counsel for
Hearings, Enforcement and
Administration
Lisa B. Clark, Esq.**
Margaret J. Bupp, Esq.**
Mail Stop O-15D21
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
e-mail: OGCMailCenter@nrc.gov
e-mail: lbc@nrc.gov
e-mail: mjb5@nrc.gov

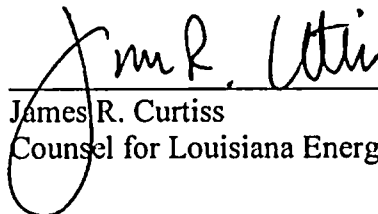
Lindsay A. Lovejoy, Jr.**
618 Pasco de Peralta, Unit B
Santa Fe, NM 87501
e-mail: lindsay@lindsaylovejoy.com

Administrative Judge
Paul B. Abramson**
Atomic Safety and Licensing Board Panel
Mail Stop T-3F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
e-mail: pba@nrc.gov

Administrative Judge
G. Paul Bollwerk, III, Chair**
Atomic Safety and Licensing Board Panel
Mail Stop T-3F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
e-mail: gpb@nrc.gov

Administrative Judge
Charles N. Kelber**
Atomic Safety and Licensing Board Panel
Mail Stop T-3F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
e-mail: cnkelber@aol.com

Lisa A. Campagna**
Assistant General Counsel
Westinghouse Electric Co., LLC
P.O. Box 355
Pittsburgh, PA 15230-0355
e-mail: campagla@westinghouse.com


James R. Curtiss
Counsel for Louisiana Energy Services, L.P.