

July 21, 2006

Mr. Karl W. Gross
Licensing Manager
Louisiana Energy Services
2600 Virginia Avenue NW, Suite 610
Washington, DC 20037

SUBJECT: LOUISIANA ENERGY SERVICES REQUEST FOR WITHHOLDING
INFORMATION FROM PUBLIC DISCLOSURE (LOUISIANA ENERGY
SERVICES GAS CENTRIFUGE URANIUM ENRICHMENT FACILITY)

Dear Mr. Gross:

By an email letter dated May 18, 2006, Mr. James Curtiss, representing Louisiana Energy Services (LES), submitted two affidavits dated May 17, 2006, executed by Mr. Larry W. Brown. These affidavits related to decommissioning funding information provided in LES letters to the U.S. Nuclear Regulatory Commission (NRC) dated December 30, 2005 (NEF-#05-035), and February 7, 2006 (NEF-06-005). In these letters, LES requested that NRC withhold the decommissioning funding information from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR), Part 2, Section 390. The information provided in the December 30, 2005, and February 7, 2006, letters contain information from a proprietary U.S. Department of Energy (DOE) report on uranium tails disposition costs.

You did not provide a non-proprietary version of the above documents.

In the two affidavits, dated May 17, 2006, Mr. Brown of DOE stated that the information in the response to the NRC RAI should be withheld from public disclosure for the following reasons:

1. It is information that is customarily held in confidence by DOE and is, in fact, held in confidence and has not been previously publically released.
2. The information was developed with the explicit understanding that the document would be treated as an internal predecisional agency document. DOE has consistently treated the information as confidential and to be withheld from public disclosure.
3. It was transmitted to and received by the U.S. Nuclear Regulatory Commission in confidence.
4. It is predecisional material that falls under the "deliberative process" privilege of the Freedom of Information Act, which permits the government to withhold documents that reflect advisory opinions, recommendations, and deliberations comprising part of the process by which government formulates decisions and policies. Thus, the harm that would result from release of the report is an impairment of the quality of agency decision making by curbing frank and independent internal discussion.

K. Gross

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We have reviewed the justifications you provided in accordance with the requirements of 10 CFR 2.390 and, on the basis of your statements, have determined that additional justification is needed to withhold the requested information from public disclosure. Within 30 days, please provide responses to the following issues:

1. As a general rule, information generated by the Federal Government or produced under government contracts cannot be deemed to be proprietary information. Why in this case is the information properly classifiable as proprietary information?
2. If a government agency gives internal deliberative process information to a non-governmental entity, any privilege authorizing withholding of the information from public disclosure is generally waived. Why wasn't any privilege waived here when DOE gave the information to LES?

If you have any questions, please contact Mr. Timothy C. Johnson at 301-415-7299.

Sincerely,

/RA/

Joseph G. Giitter, Chief
Special Projects Branch
Division of Fuel Cycle Safety
and Safeguards
Office of Nuclear Material Safety
and Safeguards

Docket: 70-3103

cc:

William Szymanski/DOE
Monty Newman/Hobbs
Peter Miner/USEC
Glen Hackler/Andrews
Matt White/Eunice
CO'Claire/Ohio
Joseph Malherek/PC
Clay Clark/NMED
Roger Mulder/Texas

Fred Seifts/Jal
James Curtiss/W&S
Betty Richman/Tatum
Lue Ethridge/Lea Cty
Richard Ratliff/Texas
Lee Cheney/CNIC
Ron Curry/NMED
Patricia Madrid/NMAG

Lindsay Lovejoy/NIRS
Troy Harris/Lovington
James Ferland/LES
John Parker/NMED
M. Marriotte/NIRS
John Swales/LES
D. Watchman-Moore/NMED
Glen Smith/NMAG

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Docket: 70-3103

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NAME	TJohnson		LWilliamson				BSmith		JGiitter	
DATE	5/ 18 /06		5/ 19/06		7/ 20 /06		7/ 21 /06		7/ 21 /06	

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