

DEC 15 2014

LES-14-000131-NRC

Attn: Document Control Desk
Office of Nuclear Material Safety and Safeguards
U.S. Nuclear Regulatory Commission
Washington DC 20555-0001

Louisiana Energy Services, LLC
NRC Docket No. 70-3103

Subject: Request for Revision to Materials License SNM-2010 to Update License Conditions 21 and 23

Reference: 1. 2011 Revised Settlement Agreement between LES and the State of New Mexico (NMED and NMAG), dated September 29, 2011

As discussed with the facility's designated Nuclear Regulatory Commission (NRC) Project Manager, on December 12, 2014, Louisiana Energy Services, LLC (LES) herewith requests an administrative update to Materials License SNM-2010. UUSA recommends changes to Material License Conditions 21 and 23 which will incorporate revisions to the state of New Mexico settlement agreement, Reference 1. A similar update was previously completed by the NRC and incorporated in Amendment 20 of the facility's Materials License. The recommended changes are as follows.

- License Condition 21 – Change “15,727 48Y cylinders” to “25,000 48Y cylinders.”
- License Condition 23 – Change “15,727 cylinders” to “24,000 cylinders” in the second paragraph;
- License Condition 23 – Change “15,727 cylinders” to “25,000 cylinders” in the third paragraph .
- License Condition 23 – Change “15,727 limit” to “25,000 limit” in the third paragraph .

The proposed wording of the conditions are as follows;

- 21. Onsite storage of DUF_6 generated at the NEF shall be limited to a maximum of 25,000 48Y cylinders (or the equivalent amount of uranium stored in other NRC accepted and Department of Transportation [“DOT”] certified cylinder types) of DUF_6 . The generation of any additional DUF_6 to be stored onsite by the licensee beyond this limit shall constitute noncompliance with the license. The licensee shall suspend production of any additional DUF_6 for onsite storage until this noncompliance is remedied. In no event shall the licensee store DUF_6 generated at the NEF in New Mexico other than at the NEF.*
- 23. The licensee shall provide financial assurance for the offsite disposal of DUF_6 from the NEF using a minimum contingency factor of twenty-five percent (25%).*

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Upon reaching 24,000 cylinders of DUF₆ in 48Y cylinders (or the equivalent amount of uranium stored in other NRC accepted and DOT certified cylinder types) in onsite storage, the licensee shall immediately increase the financial assurance to provide a fifty percent (50%) contingency factor for disposition of DUF₆ stored at the NEF unless: (a) an application to construct and operate a de-conversion facility outside of New Mexico that is specifically designated to de-convert the DUF₆ stored onsite at the NEF has been docketed by the agency responsible for reviewing the application; (b) an application for such a facility has been approved by the agency responsible for reviewing the application; or (c) the licensee is using another alternate method for removing the DUF₆ stored onsite.


In addition, upon reaching the limit of 25,000 cylinders of DUF₆ in 48Y cylinders (or the equivalent amount of uranium stored in other NRC accepted and DOT certified cylinder types) in onsite storage, the licensee shall immediately increase the financial assurance to provide fifty percent (50%) contingency factor for disposition of DUF₆ stored at the NEF if the contingency factor has not already been increased to fifty percent (50%). The contingency factor shall remain at fifty percent (50%) until the number of cylinders stored onsite is reduced to ninety-eight percent (98%) of the 25,000 limit and either: (a) an application to construct and operate a de-conversion facility outside of New Mexico that is specifically designated to de-convert the DUF₆ stored onsite at the NEF has been docketed by the agency responsible for reviewing the application; (b) an application for such a facility has been approved by the agency responsible for reviewing the application; or (c) the licensee is using another alternate method for removing the DUF₆ from New Mexico.

Nothing herein shall release the licensee from other financial assurance obligations set forth in applicable laws and regulations.

License Amendment Request 12-10, submitted by LES on November 09, 2012, provides a technical basis for an increased storage capacity. Approval of this license amendment will allow the storage of 25,000 DUF₆ cylinders.

If you have any questions, please contact Ms. Amy Johnson, UUSA Licensing and Performance Assessment Manager, at 575.394.6203.

Respectfully,



Jay Laughlin

Chief Nuclear Officer and Head of Operations

Enclosure: 1. 2011 Revised Settlement Agreement between LES and the State of New Mexico (NMED and NMAG), dated September 29, 2011

Cc:

Mike G. Raddatz, Project Manager
Three White Flint North
Mailstop: 13A12M
Washington, DC 20555-0001

ENCLOSURE 1

**2011 Revised Settlement Agreement between
LES and the State of New Mexico (NMED and NMAG)
dated September 29, 2011**



SUSANA MARTINEZ
GOVERNOR

JOHN A. SANCHEZ
LIEUTENANT GOVERNOR

State of New Mexico
ENVIRONMENT DEPARTMENT
Office of the Secretary
Harold Runnels Building
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DAVE MARTIN
CABINET SECRETARY

BUTCH TONGATE
ACTING DEPUTY SECRETARY

September 29, 2011

The Honorable Gary King
New Mexico Attorney General
408 Galisteo Street
Santa Fe, New Mexico 87504

Dear Mr. King:

At our meeting in late July to discuss amending the Settlement Agreement between Louisiana Energy Services, LLC (LES) and the State of New Mexico, it was agreed that any amended settlement must be signed by the original parties to the agreement. Based on that fact, enclosed is the 2011 LES Revised Settlement Agreement for your approval and signature.

Please provide my office with a copy of the signed agreement. If you require additional information please contact me.

Sincerely,

Dave Martin
Cabinet Secretary

cc: Gregory Smith, President and Chief Executive Officer, LES, LLC
Clint Williamson, Vice-President of Government Affairs, LES, LLC
Ryan Flynn, General Counsel, New Mexico Environment Department

2011 REVISED SETTLEMENT AGREEMENT

WHEREAS, the New Mexico Environment Department (“NMED”), the Attorney General of New Mexico (“NMAG”) and Louisiana Energy Services, LLC (“LES” or “licensee”) have determined that it is in the public interest for LES to be bound by enforceable conditions limiting the storage and disposal of depleted uranium hexafluoride (“DUF₆”) generated at the NEF;

WHEREAS, NMED, NMAG and LES have determined that it is in the public interest to insure that LES limit the amount of DUF₆ stored onsite and to limit the length of time that DUF₆ is stored onsite at the NEF;

WHEREAS, NMED, NMAG and LES have determined that it is in the public interest to require LES to establish adequate financial assurances for the storage and offsite disposal of DUF₆;

WHEREAS, NMED, NMAG and LES have determined that an appropriate contingency factor should be applied to the financial assurances to be established by LES;

WHEREAS, NMED, NMAG and LES agree to modify the June 16, 2009 Revised Settlement Agreement (“Revised Settlement Agreement”), which replaced the July 27, 2005 Settlement Agreement (“Settlement Agreement”), and substitute it with this 2011 Revised Settlement Agreement; and

WHEREAS, LES agrees, as soon as practicable after this 2011 Revised Settlement Agreement is executed by all parties, to apply to the NRC to modify its existing NEF license consistent with the conditions herein, as modified from the Revised Settlement Agreement.

THEREFORE, IT IS HEREBY STIPULATED AND AGREED by NMED, NMAG and LES that:

1. NMED, NMAG and LES admit that the NRC has jurisdiction over the parties and the subject matter of the 2011 Revised Settlement Agreement.

2. NMED, NMAG and LES agree to the following condition:

Onsite storage of DUF_6 generated at the NEF shall be limited to a maximum of 25,000 48Y cylinders (or the equivalent amount of uranium stored in other NRC accepted and Department of Transportation ("DOT") certified cylinder types) of DUF_6 . The generation of any additional DUF_6 to be stored onsite by LES beyond this limit shall constitute noncompliance with this 2011 Revised Settlement Agreement and the license. LES shall suspend production of any additional DUF_6 for onsite storage until this noncompliance is remedied. In no event shall LES store DUF_6 generated at the NEF in New Mexico other than at the NEF.

3. NMED, NMAG and LES agree to the following condition:

Onsite storage of any one cylinder of DUF_6 generated at the NEF shall be limited to a maximum of 25 years, beginning from the date that each cylinder is filled in accordance with LES' standard procedures. The storage of any one DUF_6 cylinder beyond this limit by LES shall constitute noncompliance with this 2011 Revised Settlement Agreement and with the license. LES shall suspend production of any additional DUF_6 for onsite storage until this noncompliance is remedied. In no event shall LES store DUF_6 generated at the NEF in New Mexico other than at the NEF.

4. NMED, NMAG and LES agree to the following condition:

LES shall provide financial assurance for the offsite disposal of DUF_6 from the NEF using a minimum contingency factor of twenty-five percent (25%).

Upon reaching 24,000 cylinders of DUF_6 in 48Y cylinders (or the equivalent amount of uranium stored in other NRC accepted and DOT certified cylinder types) in onsite storage, LES shall immediately increase the financial assurance to provide a fifty percent (50%) contingency factor for disposition of DUF_6 stored at the NEF unless: (a) an application to construct and operate a deconversion

facility that is specifically designated to deconvert the DUF₆ stored onsite at the NEF has been docketed by the agency responsible for reviewing the application; (b) an application for such a facility has been approved by the agency responsible for reviewing the application; or (c) LES is using another alternate method for removing the DUF₆ stored onsite from New Mexico.

In addition, upon reaching the limit of 25,000 cylinders of DUF₆ in 48Y cylinders (or the equivalent amount of uranium stored in other NRC accepted and DOT certified cylinder types) in onsite storage, LES shall immediately increase the financial assurance to provide a fifty percent (50%) contingency factor for disposition of DUF₆ stored at the NEF if the contingency factor has not already been increased to fifty percent (50%). The contingency factor shall remain at fifty percent (50%) until the number of cylinders stored onsite is reduced to ninety-eight percent (98%) of the 25,000 limit and either: (a) an application to construct and operate a deconversion facility that is specifically designated to deconvert the DUF₆ stored onsite at the NEF has been docketed by the agency responsible for reviewing the application; (b) an application for such a facility has been approved by the agency responsible for reviewing the application; or (c) LES is using another alternate method for removing the DUF₆ from New Mexico.

Nothing herein shall release LES from other financial assurance obligations set forth in applicable laws and regulations.

5. NMED, NMAG and LES agree that

LES agrees that if it decides to submit a request to the Secretary of the United States Department of Energy ("DOE") pursuant to Section 3113 of Public Law 104-134 (42 U.S.C. § 229h-I 1), such a request will be made only if both LES and DOE determine that the NEF is not and will not be considered an "existing DUF₆ storage facility" within the meaning of Section 311 of Public Law 108-447.

6. NMED, NMAG and LES agree that LES shall provide a draft copy of the periodic adjustment of the decommissioning cost estimate required by 10 C.F.R. § 70.25(e) (hereinafter referred to as the "Triennial Report") to the Attorney General of the State of New Mexico and to

the Secretary of the New Mexico Environment Department at least 60 days prior to the submission of Triennial Report in final form to the NRC. NMED, NMAG and LES further agree that they will work together in good faith to resolve any comments regarding the Triennial Report. Notwithstanding any efforts by LES to resolve any comments regarding the Triennial Report, NMED or NMAG may submit their comments directly to the NRC. Lastly, LES agrees to reimburse NMED and NMAG (or to pay directly as requested by NMED and NMAG) to hire expert(s) and/or outside counsel to evaluate, review, and provide comments to the draft Triennial Report subject to a maximum of no greater than \$20,000 per Triennial Report.

7. A. NMED, NMAG and LES agree that LES will provide financial assurance in the minimum initial amount of \$7.15/kgU for the disposition of DUF₆ situated at the NEF from the date when financial assurance is required by the NRC until LES notifies the NRC of any revision pursuant to applicable NRC regulatory requirements and guidance, but no revision shall be submitted for review sooner than the first Triennial Report.

7.B. In addition to the DUF₆ disposition cost estimate and contingency factor submitted by LES in Section 10.3 of its Fourth Revision to the Safety Analysis Report in its License Application (April 2005), NMED, NMAG and LES agree that to address and resolve NMAG's financial assurance concerns, an additional \$1.30/kgU will be included in the initial amount of financial assurance for the disposition of DUF₆ situated at the NEF, bringing the minimum initial amount to a total of \$7.15/kgU as provided in Paragraph 7.A of this Revised Settlement Agreement. NMED, NMAG and LES further acknowledge that LES maintains that the additional \$1.30/kgU to address NMAG's financial assurance concerns is over and above the amount that LES maintains is required by applicable NRC regulatory requirements and guidance.

7.C. NMED, NMAG and LES further agree that in the first, or subsequent, Triennial Report(s), LES may not submit for NRC review the elimination of the \$1.30/kgU amount

provided for in Paragraph 7.B of this 2011 Revised Settlement Agreement unless LES has in place a contractual arrangement for the processing and/or removal of DUF₆ situated onsite at the NEF. Nothing herein shall preclude NMED or NMAG, in accordance with the provisions in Paragraph 6 of this 2011 Revised Settlement Agreement, from advocating at the first, or subsequent, Triennial Report(s), any issues with respect to financial assurance, including, but not limited to, the \$1.30/kgU provided for in Paragraph 7.B of this 2011 Revised Settlement Agreement.

8. NMED, NMAG and LES agree that LES shall provide a yearly report to the Attorney General of the State of New Mexico and to the Secretary of the New Mexico Environment Department, on or before January 15th of each year that the NEF is producing DUF₆, that identifies the number of DUF₆ cylinders stored on the storage pad at the NEF as of the end of the preceding year, the number of DUF₆ cylinders anticipated to be filled during the next year, and the lengths of time all the DUF₆ cylinders have been stored onsite. In addition, NMED, NMAG and LES agree that in each such yearly report LES shall include any findings resulting from the cylinder management program (as required in LES' Environmental Report at Section 4.13.3.1.1) for the preceding year.

9. NMED, NMAG and LES agree that LES shall provide NMED and the NMAG the same access to documents and materials relating to LES' radiation protection program that is required to be provided to the NRC.

10. NMED, NMAG and LES agree that LES shall support and shall not object to NMED accompanying NRC staff on any of its inspections of the NEF radiation program and conducting inspections as permitted by any agreements between NMED and NRC that are executed in accordance with applicable NRC policy and guidance. In this regard, LES shall allow NMED staff the same access to its facilities, documents, materials and personnel to which

NRC is entitled. NMED shall execute any confidentiality agreement necessary to participate in such inspections and shall comply with all appropriate NEF rules (e.g., safety, security) and any applicable NRC requirements when participating in such inspections.

11. NMED, NMAG and LES agree that the NEF shall comply with all safeguards requirements of the International Atomic Energy Agency (“IAEA”) as imposed by the NRC to ensure proliferation protection.

12. NMED, NMAG and LES agree that LES shall provide to the New Mexico Department of Public Safety the Physical Security Plan for the NEF subject to the execution by the appropriate officials, employees or representatives of the New Mexico Department of Public Safety of all required non-disclosure agreements.

13. This 2011 Revised Settlement Agreement does not resolve matters not raised by NMED or NMAG. NMED and NMAG reserve the right to enforce and seek relief under any other applicable laws and regulations. Moreover, nothing in this 2011 Revised Settlement Agreement waives or releases LES from its obligation to comply with all applicable laws and regulations.

14. All parties hereto agree to exercise due diligence in the performance of their various responsibilities under this 2011 Revised Settlement Agreement and to cooperate with each other in carrying out its intent.

15. This 2011 Revised Settlement Agreement supersedes all prior representations, negotiations, and understandings of the parties hereto, whether oral or written, and constitutes the entire agreement between the parties with respect to the matter hereof. It is expressly understood, however, that nothing in this 2011 Revised Settlement Agreement shall prevent or excuse LES from fulfilling any legal or statutory requirement of the NRC, or its successors, whether

contained in the license for the NEF when issued or other requirement or regulation of the NRC, its successors, or representatives, whether oral or in writing.

16. All parties agree not to contest the NRC's jurisdiction to approve and enforce NRC license conditions created or modified as a result of this Revised Settlement Agreement. If any provision of this 2011 Revised Settlement Agreement is found by the NRC or any court of competent jurisdiction to be outside the NRC's jurisdiction, and thus unenforceable by the NRC, or should the NRC refuse or otherwise decline to enforce any provision of this 2011 Revised Settlement Agreement, the parties agree that an action to enforce such provision may be filed in the United States District Court for the District of New Mexico (if subject matter jurisdiction exists) or the First Judicial District Court, Santa Fe County, of New Mexico and agree not to object to the jurisdiction of those courts to hear and determine such action. The parties further agree to waive any objection to the standing of any party to this 2011 Revised Settlement Agreement to bring an action to enforce the license conditions in this 2011 Settlement Agreement before the NRC or, if outside the NRC's jurisdiction, the United States District Court or the First Judicial District Court. Finally, the parties agree to proceed before the NRC prior to bringing an action in court, and further to proceed in United States District Court (if subject matter jurisdiction exists) before proceeding in the First Judicial District Court.

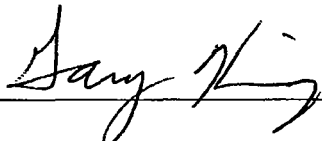
17. In the event of a breach of any provision of Paragraphs 2, 3, 4, 5 or 7 herein, NMED and NMAG shall be entitled to liquidated damages from LES in the amount of \$5,000 per day per breach. This amount is not a penalty but is a reasonable estimate of the damages that would result from any breach. Notwithstanding the foregoing, NMED, NMAG and LES agree that LES shall be entitled to attempt to cure the breach of any provision of Paragraphs 2, 3, 4, 5 or 7 herein within 60 days of receiving written notice from NMED or NMAG of such breach.

18. The parties agree if any term, section, provision or portion of this 2011 Revised Settlement Agreement is subsequently held invalid or unconstitutional by any court of competent jurisdiction, the remaining terms, sections, provisions and portions of this 2011 Revised Settlement Agreement shall remain in full force and effect.

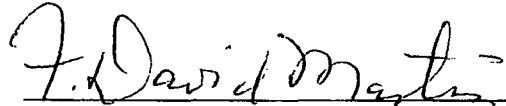
19. The 2011 Revised Settlement Agreement shall be binding upon the parties' successors, assigns, representatives, employees, agents, partners, subsidiaries, and affiliates.

20. NMED, NMAG and LES expressly waive the right to challenge, contest the validity of, or seek judicial review of any order entered as a result of this 2011 Revised Settlement Agreement so long as such order is fully consistent with each provision of this 2011 Revised Settlement Agreement.

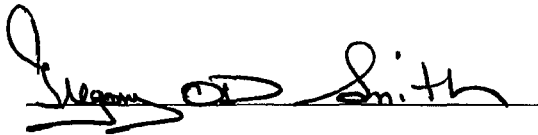
IN WITNESS WHEREOF LES, NMED and NMAG have caused this 2011 Revised Settlement Agreement to be executed by their duly authorized representatives on this 29th day of September 2011.



Gary King
Attorney General of New Mexico



F. David Martin
Secretary, New Mexico Environment Department



Gregory OD Smith
President and Chief Executive Officer
Louisiana Energy Services, LLC