UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION II
245 PEACHTREE CENTER AVENUE NE, SUITE 1200
ATLANTA, GEORGIA 30303-1257

September 5, 2019

EA-18-161

Stephen R. Cowne, Chief Nuclear Officer
and Compliance Manager
URENCO USA
P.O. Box 1789
Eunice, NM 88231

SUBJECT: LOUISIANA ENERGY SERVICES, LLC (LES), dba URENCO USA (UUSA) – NUCLEAR REGULATORY COMMISSION INSPECTION REPORT 70-3103/2019-403 AND NOTICE OF VIOLATION

Dear Mr. Cowne:

This letter refers to Inspection Report 70-3103/2019-403 which documented the conclusions of an investigation completed on October 24, 2018, by the Nuclear Regulatory Commission's (NRC's) Office of Investigations (OI). The purpose of the investigation was to review a security incident that was identified on September 19, 2016 at the Louisiana Energy Services, LLC (LES) (d/b/a URENCO USA (UUSA)) uranium enrichment facility in Eunice, NM. NRC Inspection Report 70-3103/2019-403, issued on Februry 10, 2017, and NRC Inspection Report 70-3103/2016-403 also documented the NRC's review of the same security incident. The OI investigation and NRC inspection reports contain classified information, and therefore have not been made available electronically for public inspection in the NRC Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS).

In the letter transmitting NRC Inspection Report 70-3103/2019-403 (ADAMS Accession No. ML19092A289), we provided you with the opportunity to address three apparent violations of 10 CFR Part 95, identified in the report, by either attending a predecisional enforcement conference or by providing a written response before we made our final enforcement decision. In a letter dated April 29, 2019 (ADAMS Accession No. ML19122A184) you provided a response to the apparent violations.

Based on the information developed during the inspection, the investigation, and the information that you provided in your response to the inspection report, dated April 29, 2019, the NRC has determined that a violation of NRC requirements occurred. The violation is cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding it are described in detail in NRC Inspection Report 70-3103/2019-403. The violation involved the deliberate actions of a licensee contract employee who failed to maintain control of a component jointly classified by the NRC and Department of Energy (DOE) as Confidential – Restricted Data.

Though the employee's actions resulted in the failure to properly secure the component in accordance with the requirements specified in 10 CFR Part 95, the significance of the component and the potential consequences were determined to be low. Additionally, there was no evidence to conclude that the component was compromised by an unauthorized individual, and the duration of the loss of control of the component was determined to be of relatively short duration. Based on these considerations and in light of the willful aspects, the violation has been categorized in accordance with the NRC Enforcement Policy at Severity Level III. The NRC also concluded that, because this isolated security incident resulted in multiple but interrelated non-compliances of 10 CFR Part 95, the three separate apparent violations documented in NRC Inspection Report 70-3103/2019-403 should be combined into one NOV (Enclosure).

In accordance with the NRC Enforcement Policy, a base civil penalty in the amount of $36,250 is considered for a Severity Level III violation.

Because your facility has been the subject of escalated enforcement actions within the last two years[1], the NRC considered whether credit was warranted for *Identification* and *Corrective Action* in accordance with the civil penalty assessment process in Section 2.3.4 of the Enforcement Policy. Since you identified the violation, entered the issue into your NRC-credited corrective action program, and implemented corrective actions to address the cause of the violation, a civil penalty is not warranted in accordance with Section 2.3.4 of the Enforcement Policy. As stated in your response dated April 29, 2019, corrective actions included revoking the responsible individual's access to classified information, revising procedures and processes to enhance protection of classified information, providing enhanced training to all site personnel specific to the event and insider threats, and increasing management and supervisory oversight during production activity.

Therefore, to encourage prompt identification and comprehensive correction of violations, I have been authorized, after consultation with the Director, Office of Enforcement, not to propose a civil penalty in this case. However, significant violations in the future could result in a civil penalty. In addition, issuance of this Severity Level III violation constitutes escalated enforcement action that may subject you to increased inspection effort.

The NRC has concluded that information regarding: (1) the reason for the violation(s); (2) the corrective actions that have been taken and the results achieved; and (3) the date when full compliance was achieved is already adequately addressed on the docket in your letter to the NRC, dated April 29, 2019. Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

In accordance with 10 CFR 2.390 of the NRC's "Agency Rules of Practice and Procedure," a copy of this letter, its enclosure, and your response (if you choose to provide one) will be made available electronically for public inspection in the NRC Public Document Room and in the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC Web site at http://www.nrc.gov/reading-rm/adams.html. To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction. If personal privacy or proprietary

[1] A Severity Level III violation with no civil penalty as issued on June 18, 2018, (EA-18-023) (ADAMS Accession No. ML18166A002).

information is necessary to provide an acceptable response, please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such information, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information). The NRC also includes significant enforcement actions on its Web site at (http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/).

Sincerely,

/RA/

Laura A. Dudes
Regional Administrator

Docket No. 70-3103
License No. SNM-2010

Enclosure: Notice of Violation

cc w/encl: (See page 4)

cc:
Butch Tongate, Cabinet Secretary
New Mexico Department of Environment
Office of the Secretary
1190 St. Francis Drive
P.O. Box 26110
Santa Fe, NM 87502-0157

Billy Hobbs, Mayor
City of Eunice
P.O. Box 147/1106 Ave J
Eunice, NM 88231

The Honorable Sam D. Cobb, Mayor
City of Hobbs
200 E. Broadway
Hobbs, NM 88240

Stephen Aldridge, Mayor
City of Jal
P.O. Drawer 340
Jal, NM 88252

Chair Ron R. Black
Lea County Board of County Commissioners
Lea County Courthouse
100 North Main Avenue, Suite 4
Lovington, NM 88260

Daniel F. Stenger, Counsel
Hogan Lovells VP LLP
555 13th Street, NW
Washington, DC 20004

Santiago Rodriguez, Chief
Radiation Controls Bureau
NM Environment Department
PO Box 5469
Santa Fe, NM 87502-5469

David Sexton, Managing Director UUSA,
President and Chief Executive Officer
Louisiana Energy Services, LLC
URENCO USA
P.O. Box 1789
Eunice, NM 88231
Dave.Sexton@Urenco.com

(cc: cont'd on page 5)

(cc: cont'd)
Lisa Hardison, Manager of Communications and Public Relations
Communications and Public Relations
Louisiana Energy Services, LLC
URENCO USA
P.O. Box 1789
Eunice, NM 88231
Lisa.Hardison@urenco.com

Richard Goorevich, Director of Government Affairs
Government Affairs
Louisiana Energy Services, LLC
URENCO Ltd.
1560 Wilson Blvd. Suite 300
Arlington, VA 22209
Richard.Goorevich@urenco.com

Perry Robinson, Outside General Counsel
URENCO USA
P.O. Box 1789
Eunice, NM 88231
Perry.Robinson@urenco.com

Richard A. Ratliff, PE, LMP
Radiation Program Officer
Bureau of Radiation Control
Department of State Health Services
Division for Regulatory Services
1100 West 49th Street
Austin, TX 78756-3189

SUBJECT: LOUISIANA ENERGY SERVICES, LLC (LES), dba URENCO USA (UUSA) – NUCLEAR REGULATORY COMMISSION INSPECTION REPORT 70-3103/2019-403; NOTICE OF VIOLATION

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Region II Regional Coordinator, OEDO
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All Regions Enforcement Coordinators
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OFFICE	RII:DFFI	RII:DFFI	RII:DFFI	RII:EICS	RII: ORA	HQ: OE	RII:ORA
NAME	L. Pitts	R. Williams	L. Suggs	M. Kowal	S. Price	T. Marenchin	L. Dudes
DATE	06/25/2019	06/25/2019	07/03/2019	06/26/2019	06/28/2019	08/14/2019	09/05/2019

OFFICIAL RECORD COPY

NOTICE OF VIOLATION

Louisiana Energy Services (LES), LLC
(dba URENCO USA)
Eunice, New Mexico

License No. SNM-2010
Docket No. 70-3103
EA-18-161

During an NRC inspection completed on on February 10, 2017, and an NRC investigation completed on October 24, 2018, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

> 10 CFR Part 95 provides requirements for safeguarding Secret and Confidential National Security Information and Restricted Data received or developed in conjunction with activities licensed, certified or regulated by the Commission.
>
> 10 CFR 95.25, "Protection of National Security Information and Restricted Data in Storage" requires confidential matter to be stored in a safe, steel file cabinet, or safe-type steel file container that has an automatic unit locking mechanism or a locking steel file cabinet as described in 95.25(a)(1).
>
> 10 CFR 95.27, "Protection While in Use," states that "while in use, classified matter must be under the direct control of an authorized individual to preclude physical, audio, and visual access by persons who do not have the prescribed access authorization or other written CSA disclosure authorization."
>
> 10 CFR 95.35, "Access to Matter Classified as National Security Information or Restricted Data" states in part, that except as the Commission may authorize, no licensee, certificate holder or other person subject to the regulations in this part may receive or may permit any other person to have access to matter revealing Secret or Confidential National Security Information or Restricted Data."
>
> Contrary to the above, on September 19, 2016, the licensee failed to comply with 10 CFR Part 95, when confidential matter was not stored in a safe, steel file cabinet, or safe-type steel file container that has an automatic unit locking mechanism or a locking steel file cabinet, and was subsequently removed from the site. Specifically, on September 19, 2016, an Enrichment Technology – United States (ETUS) employee, serving as a contractor to, URENCO USA, willfully removed a component classified as Confidential-Restricted Data from its authorized storage location and placed that classified component in another ETUS employee's lunchbox without his knowledge. The other ETUS employee subsequently exited the facility with his lunchbox, returned to his home, and did not discover that the component was in his lunchbox until the next morning. By removing the component from its authorized place of storage and placing it in the other ETUS employee's lunchbox, the ETUS employee created conditons where the classified component did not remain under the direct control of an authorized individual while in use and was accessible to persons not authorized for access to the component, resulting in violation of multiple requirements of 10 CFR Part 95.

This is a Severity Level III violation (NRC Enforcement Policy Section 6.13).

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken to correct the violation and prevent recurrence, and the date when full compliance was achieved, is already adequately addressed on the docket in a letter from LES/URENCO USA to the NRC dated April 29, 2019 (ADAMS Accesion No. ML19122A184). However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation, (EA-18-161)," and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001 with a copy to the Regional Administrator, Region 2, within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

If you choose to respond, your response will be made available electronically for public inspection in the NRC Public Document Room or in the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC Web site at http://www.nrc.gov/reading-rm/adams.html. Therefore, to the extent possible, the response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction.

In accordance with 10 CFR 19.11, you may be required to post this Notice within two working days of receipt.

Dated this 5th day of September 2019.