



PUBLIC CITIZEN & NIRS CONTENTIONS AGAINST LES

OVERVIEW

The Nuclear Information and Resource Service (NIRS) and Public Citizen (PC) have intervened on behalf of our members in the Eunice-Hobbs area of New Mexico in the licensing proceeding for a uranium enrichment plant—dubbed the “National Enrichment Facility” (NEF)—proposed by the European-led multinational consortium Louisiana Energy Services (LES).

The licensing process is a formal legal procedure. The U.S. Nuclear Regulatory Commission (NRC) is responsible for licensing uranium enrichment plants. The NRC has appointed a three-judge Atomic Safety and Licensing Board (ASLB) to hear disputes arising from LES’s license application and other relevant documents, such as NRC’s Environmental Impact Statement (EIS), an evaluation required by U.S. law. These disputes are called “contentions” and they must meet stringent criteria to be admitted for hearing. Contentions must involve genuine disputes over material issues of fact or law—instances where LES’s license application might be in violation of federal regulations or where it is incomplete or misleading. Contentions must be supported by affidavits and testimony from expert witnesses—people who are acknowledged leaders in their respective fields.

NIRS/PC have had several contentions admitted to the proceeding by the ASLB, each one coded (e.g., “EC-1,” for “Environmental Contention 1” or “TC-2” for “Technical Contention 2”) and supported by different bases. NIRS/PC will argue its environmental contentions at a formal evidentiary hearing beginning Feb. 7, 2005 in Hobbs, New Mexico. If LES fails to adequately resolve our complaints during the course of the licensing proceeding, the license they seek should be denied by the Board.

SPECIFIC CONTENTIONS

The NIRS/PC contentions are divided into five areas where we believe LES has been less than forthcoming

or disingenuous: (1) Impacts upon groundwater and water supplies in the Eunice-Hobbs area; (2) LES’s plan for radioactive/hazardous waste storage and disposal; (3) decommissioning costs when the plant has ceased operation; (4) the costs of managing and disposing of radioactive/hazardous waste; and 5) the need for the facility.

WATER RESOURCES (EC-1 & EC-2)

We believe that LES’s license application is deficient in its consideration of the proposed plant’s impact on water resources. Advised by an experienced groundwater hydrologist, we argue that LES has failed to adequately evaluate the geology and hydrology of the site and has imprudently assumed that its wastewater impoundment systems will operate perfectly (EC-1). The surveys performed by LES and the methodology it followed are not adequate to assess the fate of potentially contaminated water coming from the facility. NIRS/PC also argue that LES fails to address the long-term impacts of its water usage in Lea County, which has a well-documented water supply problem (EC-2).

RADIOACTIVE/HAZARDOUS WASTE STORAGE AND DISPOSAL (EC-3/TC-1 & EC-4)

The NEF would create hundreds of thousands of tons of radioactive and hazardous waste in the form of depleted uranium (DU) during its projected 30-year lifetime. No licensed storage facility for this type of waste exists in the United States. The regulatory requirement, based on a precedent in LES’s unsuccessful effort to build a similar plant in Louisiana in the 1990s, is that LES must have a “plausible strategy” for waste disposal. While this is a weak requirement—LES and all nuclear facilities *should* have clear and achievable waste disposal plans—we contend that LES cannot even meet the “plausible” standard. Indeed, LES’s application proposes *implausible* strategies: that the DU waste could either be converted into another form (no such conversion

facility is currently operating in the U.S.) and disposed of in an old uranium mine; or, alternatively, the waste could be absorbed by the U.S. Department of Energy (DOE), which already has 700,000 tons of similar waste it hasn't been able to process (which would take 25 years) or dispose of yet.

DECOMMISSIONING COSTS (EC-5/TC-2)

NIRS/PC argue that LES employed an inappropriate methodology to calculate the costs of decommissioning its plant and disposing of its radioactive and hazardous waste, resulting in an unrealistically low cost estimate. The LES cost estimates are based on the assumption that its depleted uranium waste may be disposed of in the manner of other “low-level” waste, which would reduce disposal costs.

The NRC recently ruled that depleted uranium may be classified as “low-level” radioactive waste, but it did not base its decision on the constitution or harmful properties of DU, nor did it conclude that the cost of disposal of DU would be comparable to the cost of disposing of other kinds of low-level radioactive waste. In fact, the NRC, in its ruling, agreed with NIRS/PC that a definitive conclusion on whether LES's depleted uranium (DU) will meet the regulatory requirements for near-surface disposal (a less expensive disposal option) “cannot be reached at this time, and may require further environmental or safety analysis.” A basis of NIRS/PC contention EC-6/TC-3 argues that the “engineered trench” method of waste disposal presented by LES is not acceptable.

Other imprudent assumptions contribute to a misrepresentation of the costs and feasibility of decommissioning the plant and disposing of its depleted uranium waste. LES has underestimated the travel distances to disposal and processing facilities and improperly assumed a market for its recycled steel and other waste materials, which may be radioactively-contaminated and therefore unacceptable to recyclers.

COSTS OF MANAGEMENT AND DISPOSAL OF DEPLETED URANIUM (EC-6/TC-3)

This contention is related to the above two contentions. Not only does LES not have a “plausible” plan for waste disposal, NIRS/PC argue that the company's cost estimates for its flawed plans are themselves wrong and based on inaccurate and misleading figures, and actual costs—if a disposal facility were even available—would be far higher.

NEED FOR THE NEF (EC-7)

NIRS/PC argue that LES has not shown that there is a need for this facility (a federal requirement under the National Environmental Policy Act). For years, there has been approximately 100% overcapacity in the global uranium enrichment business. Nuclear utilities—the only customers of companies such as LES—have been able to obtain all of the enriched uranium they need, at reasonable prices. LES has not adequately demonstrated that its product would be priced below the rates of competitors, nor has it shown that there is any shortage of product that its plant would correct.

OTHER ISSUES EXCLUDED FROM HEARING BY THE NRC

The NRC's ASLB denied several of NIRS/PC's proffered contentions, but the issues presented therein remain relevant to consideration of the LES project.

NUCLEAR PROLIFERATION

If the LES plant were built, it could interfere with a key United States nuclear non-proliferation program called “Megatons to Megawatts.” Under this program, USEC, Inc.—which currently operates a uranium enrichment plant in Paducah, Kentucky, and is seeking a license for another in Piketon, Ohio—imports highly-enriched uranium taken directly from Russian nuclear warheads and turns it into reactor fuel. More than 6,000 nuclear warheads already have been dismantled under this program, but many thousands more remain in Russia, often poorly-secured and posing a threat of diversion to rogue nations or terrorist groups. It is essential for our national security that this program continue unhindered. Toward the end of curbing nuclear proliferation, the Director General of the International Atomic Energy Agency (IAEA), Dr. Mohamed ElBaradei, has recommended a five-year moratorium on uranium enrichment, saying “the nuclear industry already has more than enough capacity to fuel its power plants...”

Moreover, the record of LES's parent company, the European consortium Urenco, leaves something to be desired when it comes to preventing nuclear proliferation. Urenco blueprints have been stolen or obtained by numerous countries, including Pakistan, Iraq, Iran, North Korea and Libya. Urenco's poor record at protecting its highly classified nuclear secrets should not be rewarded with a license to make new profits in the United States.