Commenter 031

From: "Lee Cheney" <lee_cheney@leaco.net>
To: <nrcrep@nrc.gov>
Date: Mon, Jan 3, 2005 9:16 PM
Subject: Question for NRC to answer at LES hearings

After a recent study, the EPA announced it could take up to 35 years and $280 billion to cleanup the nation's hazardous waste sites. The EPA currently estimates 77,000 such sites, with up to 9,267 more discovered each year. At that rate, more than 355,000 hazardous waste sites could require cleanup by 2039.

How many sites does the NRC estimate that there will be on the cleanup list ahead of Les when LES closes down operations after thirty years and how long does the NRC esitmate that it will take after LES closes down operations before the LES waste stored at Eunice will be cleaned up and at what cost to the taxpayers?

Comment #031-7

Lee Cheney

Hobbs, NM 88240

J-103

Commenter 031

From: "Lee Cheney" <lee_cheney@leaco.net>
To: <nrcrep@nrc.gov>
Date: Wed, Jan 5, 2005 5:55 PM
Subject: Question for LES hearings about LES clean up costs

Please give the questions below full evaluation and analysis at the LES hearings:

Evidently, according the reply below that the NRC sent to Phillip, there is no risk to the taxpayers for LES cleanup. The only problem is, as I understand it, the LES cleanup bonds are only about 1/10th (and if inflation keeps going maybe only 1/100th) of what the cost will be if the cost of other taxpayer funded clean up costs are used as a guide. Who is going to GUARANTEE that the LES bonds will be SUFFICIENT to cover the cleanup costs 30 years from now and that there will be zero cost to the taxpayers 30 years from now????

Comment #031-8

Lee

----- Original Message -----
From: PHILLIP BARR
To:
Sent: Wednesday, January 05, 2005 1:33 PM
Subject: Re: Question for Timothy Johnson of the NRC about the Louisiana Energy services plant in lea county

This is the answer I received from the NRC. If all this government involvement has allowed 77,000 toxic sites in this country, and more added to the list each year, whats to keep LES from becoming another site that has to be cleaned up at government expense?
Notice no answer from Mr. Johnson on the projected number of toxic cleanup sites that might be on a list about the time that LES goes off line.
If this LES plant was such a good deal, why was it run out of two states?
Government was involved in an uranium enrichment plant in Paducah kentucky, and our own Governor Richardson apologized to the workers there for what that plant did to them.
Try to get anyone with the Nrc to guarantee this industry wont make people sick.
Are you listening Governor? Ron Curry?

Phillip Barr
Lea County

----- Original Message -----
From: Timothy Johnson
To: pharb2@msn.com
Sent: Wednesday, January 05, 2005 11:19 AM
Subject: Re: Question for Timothy Johnson of the NRC about the Louisiana Energy services plant

I assume the list of sites requiring cleanup you mention is the list the U.S. Environmental Protection Agency keeps of potential Superfund sites. It is our objective to ensure that NRC's sites never get on the Superfund list and require taxpayers to fund the decommissioning of licensed sites. We do this through our decommissioning financial assurance requirements (see 10 CFR 40.36 and 70.25). In the event that the licensee is unable to carry out decommissioning through bankruptcy or other reason, the financial assurance provisions provide the funding for decommissioning and NRC would ensure that the proper site remediation takes place. For uranium enrichment facilities, applicants must provide a decommissioning funding plan consisting of a site-specific cost estimate for decommissioning and a financial instrument, such as a surety bond, letter of credit, etc. The regulations provide additional information on the types of instruments that may be used and the requirements for these instruments. LES has chosen to use a surety bond for its financial mechanism.

>>> "PHILLIP BARR" <pharb2@msn.com> 01/04/05 09:39AM >>>
I understand there are 77,000 toxic waste sites in this country that need to be cleaned up with more added to the list each year.
Mr. Johnson, what is the estimated number of cleanup sites that would be on a cleanup list and ahead of LES at the end of the thirty year lifespan of the LES plant?
I request the nrc find this data and submit it to the state congress.

Phillip Barr
lea county.

Commenter 031

From: "Lee Cheney" <lee_cheney@leaco.net>
To: <nrcrep@nrc.gov>
Date: Thu, Jan 6, 2005 7:07 PM
Subject: Fw: Question for LES hearings about LES clean up costs

> Dear Mr. Johnson;
> Thank you for your reply below to my original question. I would also like to
> have the LES DEIS explain in detail by whom, and how the LES cleanup costs
> would be paid if the insurance company (or companies) that are providing the
> LES cleanup bonds go bankrupt (as many insurance companies have and continue
> to do) or for any other reason are unable to pay for the LES cleanup costs.
> Lee Cheney

Comment #031-9

>
> ----- Original Message -----
> From: "Timothy Johnson" <TCJ@nrc.gov>
> To: <lee_cheney@leaco.net>
> Sent: Thursday, January 06, 2005 12:24 PM
> Subject: Re: Question for LES hearings about LES clean up costs
>
>
> As is stated in 10 CFR 40.36(d) and 70.25(e), decommissioning cost estimates
> must be adjusted at intervals not to exceed 3 years. The periodic
> adjustments would account for inflation, changes in the costs of goods and
> services (e.g., waste disposal), changes in facility conditions or
> operations, and changes in expected decommissioning procedures.
>
> The following is a link to the guidance document we use in reviewing
> decommissioning funding plans:
>
>
http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1757/v3/sr1757v3.pdf
>
> The periodic updates to the decommissioning funding plan will ensure that
> there is sufficient funds to decommission the facility throughout its
> lifetime.
> >>> "Lee Cheney" <lee_cheney@leaco.net> 01/05/05 05:57PM >>>
> Please give the questions below full evaluation and analysis at the LES
> hearings:
>
> Evidently, according the reply below that the NRC sent to Phillip, there is
> no risk to the taxpayers for LES cleanup. The only problem is, as I
> understand it, the LES cleanup bonds are only about 1/10th (and if inflation
> keeps going maybe only 1/100th) of what the cost will be if the cost of
> other taxpayer funded clean up costs are used as a guide. Who is going to
> GUARANTEE that the LES bonds will be SUFFICIENT to cover the cleanup costs
> 30 years from now and that there will be zero cost to the taxpayers 30 years
> from now????
> Lee

> ----- Original Message -----
> From: PHILLIP BARR
> To:
> Sent: Wednesday, January 05, 2005 1:33 PM
> Subject: Re: Question for Timothy Johnson of the NRC about the Louisiana
> Energy services plant in lea county
>
>
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> involvement has allowed 77,000 toxic sites in this country, and more added
> to the list each year, whats to keep LES from becoming another site that
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> Notice no answer from Mr. Johnson on the projected number of toxic cleanup
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> If this LES plant was such a good deal, why was it run out of two
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> Government was involved in an uranium enrichment plant in Paducah
> kentucky, and our own Governor Richardson apologized to the workers there
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> Try to get anyone with the Nrc to guarantee this industry wont make
> people sick.
> Are you listening Governor? Ron Curry?
>
> Phillip Barr
> Lea County
>
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> ----- Original Message -----
> From: Timothy Johnson
> To: pharb2@msn.com
> Sent: Wednesday, January 05, 2005 11:19 AM
> Subject: Re: Question for Timothy Johnson of the NRC about the Louisiana
> Energy services plant
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It
> is our objective to ensure that NRC's sites never get on the Superfund
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> CFR 40.36 and 70.25). In the event that the licensee is unable to carry
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> decommissioning through bankruptcy or other reason, the financial
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> provisions provide the funding for decommissioning and NRC would ensure
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> applicants must provide a decommissioning funding plan consisting of a
> site-specific cost estimate for decommissioning and a financial
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> its financial mechanism.
>
> >>> "PHILLIP BARR" <pharb2@msn.com> 01/04/05 09:39AM >>>
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> the LES plant?
> I request the nrc find this data and submit it to the state congress.
>
>
> Phillip Barr
> lea county.
>
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>
>
>
>

Commenter 031

From: "Lee Cheney" <lee_cheney@leaco.net>
To: <nrcrep@nrc.gov>
Date: Fri, Oct 15, 2004 1:49 AM
Subject: Request for NRC to investigate CNIC web site

Attention Chip Cameron:

Per my discussion with you following the NRC meeting at Eunice tonight, I hereby submit the following request to the NRC:

Comment #031-10

In view of the attack on and the accusations made about the Citizens Nuclear Information Center (CNIC) web site at the NRC draft EIS meeting at Eunice tonight I hereby request that the NRC include in the NRC EIS a clear statement that the NRC has investigated the CNIC and that there is nothing on the CNIC web site that is not the truth and that if the NRC finds anything on the CNIC web site that is not the truth that the NRC so advise me so that anything that is not the truth on the CNIC web site may be removed from the CNIC web site.
sincerely,
Lee Cheney

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United States
Interest Free Home Mortgage Corporation
www.USIFHMC.com

Commenter 032

Through out the whole document there are statements made regarding the construction, operation and decommissioning of said plant National Enrichment Facility. Although the report does summarize the effects of the different phases of the plant and according to the NRC the impacts of the operations and construction and decommissioning would have a small impact on the environment, I find that all one has to do is easily look up the subject and find the summary following. In many of the different situations involving information, many references are made to the properties of the UF6 uranium hexafluoride and the feed gas as well as the depleted uranium waste byproduct. In all occurrences involving accidental release of the UF6 I find dangerous situations arise. A ruptured container can cause death and excessive radioactive materials are release to the air and surrounding environment. What would happen if at some point all 15727 containers ruptured due to a possible terrorist attack . This is an item not covered under the EIS. T his is a state and national security issue. Who will address this and give a reply as to the consequence of such a thing happening? Does this fall under Safety and Security which is identified as being outside the scope of the EIS and NRC?

Comment #032-1

Comment #032-2

What about the disposition of the waste? The viable options are discussed; unfortunately, nothing is solid or contingent upon completion of this plant. Where is the proof that the waste will be gone? I have heard all politicians say that the governor wants the waste gone but final disposition has only been in outlines as possible options available. No contract means no guarantee.
The State of NM Environmental Dept and Atty General's office is being left out of the legal process and this is concerning to me. The 2 state government entities filed contentions that should be addressed during the NRC hearing starting 2005, but it appears as though nothing is happening yet. The Gov of NM has requested the admittance of the 2 offices but it looks like the governor has no real say in this matter. This is very serious and we in this community will be lacking support if they are not admitted as important Interested Parties to this process. Who will assure us that the waste is removed as soon as possible? Who will stand up for Eunice? Our city government should be asking these same questions, why aren't they? Who will protect us with the necessary laws in place should something like environmental contamination or death occur?

Comment #032-3

The water issue is still of concern as well, we know that communities in NM are adopting water conservation policies required to be in place by next year. We know our 40-year water plan indicated a possible shortage of water within 40 years and yet we will allow this plant to use all the water they need and want and then at some point a possible deconversion plant may be built and that plant will use our water as well. When will our needs be considered for the 40 yr plan? My community still has much work to do, according to the water study engineers recommended that new water wells be drilled and water conservation be addressed. Water is an important and crucial part of our future here in Eunice and I am very concerned that this is not being taken seriously enough. Other issues that concern me are in the scoping summary reports are identified as being outside the scope of this environmental impact statement drafted by the NRC but I do intent to submit written comments in addition to these.

Comment #032-4

Commenter 032

I personally do not support this project. I do not believe that this facility should be constructed in Eunice. Our community already has more than it's share of a hi-risk and polluting industry with the Oil and Gas Industry. We are exposed daily to hydrogen sulfide gas and other oil related pollutants. We have more than our fair share of cancer and in this DEIS there are constant references to Latent Cancer Fatalities. Excessive exposure to radioactive emissions and waste cannot be good for anyone. Why must the community of Eunice be the one to suffer the ill effects which are bound to occur and the surrounding areas will profit by our misery? I live here and I intend to be here a long time if God is willing. I ask you as Christian brothers and sisters, would you want this done to you? I would not want this for anyone regardless of the monetary profit potential. It is an unhealthy environment that you supporters of this project are wanting to subject the community of Eunice to and I will vigorously oppose the planning of this plant. I am a member of Public Citizen and Nuclear Information Resource Services and am very glad that most of our contentions were admitted by the NRC. We will have our day in court and at the end of the day, who knows what might happen.

Comment #032-5

I request that the Nuclear Regulatory Commission deny the license application for Urenco, Louisana Energy Services, National Enrichment Facility.

Rose Gardner
10-14-04
B.4514
Eunice NM
88231

J-107

Commenter 032

Nuclear Regulatory Commission
Chief, Rules and Directives Branch
Division of Administrative Services
US Nuclear Regulatory Commission
Washington, DC 20555-0001

NUREG-1790/Docket 70-3103
Public Comment: Draft Environmental Impact Statement for the Uranium Enrichment Facility Proposed by Louisiana Energy Services for Lea County, NM

In Louisiana Energy Service's DEIS the gaseous effluent vent systems emissions of the operational plant are unclear. I request that the final EIS clearly state the allowable emission of each of these various discharges (per EPA, ACGIH, etc.) The numbers don't mean anything without an understanding of what can be discharged by law.

Comment #032-14

Thank you,

Anita Sulard
Rose Gardner

Commenter 032

NRC
Chief, Rules and Directives Branch
Division of Administrative Services
US Nuclear Regulatory Commission
Washington DC 20555-0001

NUREG-1790/Docket#70-3103

To Whom It May Concern,

The following are issues that have not yet been resolved.

1. Water- The 40-year water plan states that this area will have a water shortage within the next 40 years-why will we let LES take our water before it hitsour water tanks? This rich company needs to drill their own water wells and go and deplete their own water supply not ours. (pg 4-66, 19-22, pg3-40, 53-60, pg 3-37, 33-43)

Comment #032-15

2. Waste- The waste sitting at Paducah and Oak Ridge is an ugly reminder that we humans will tolerate even this mess for 50 years or even longer. NM Governor Richardson claims he will not support facility if the waste is left here, so will he accept the idea that it's alright to move it 100 yards over to Waste Control Specialists and that will satisfy his requirements? No, I expect our Governor to do the right thing and take care of NM and the residents of Eunice, small as we are, we need him to take care of us. The waste should not travel anywhere on rail or truck, the waste should never be allowed to be created. This plant does not need to be created.

Comment #032-16

3. Air Quality- we breathe polluted air already with 3 gas processing plants in around the town of Eunice, hydrogen sulfide gas in prevalent just stepping outside of our home. Why must we be subjected to radiation and radioactive emissions and all the other negative pollutants as stated in the EIS? Is this just to justify 150-200 temporary jobs? The plant operating time will only be a few years (14) the rest of the time will be initial construction and 9 years will be spent in the decommissioning phase, the so-called full time employees with special qualifications will be employed less that 15 years. That is not even time enough to satisfy a bank note on a new home.
(pg 4-44, 31-42, pg 4-43, 27-30, pg 4-72 1-9, pgC-9 17-29)

Comment #032-17

I request that the NRC deny the license application for Urenco, Louisiana Energy Services.

Comment #032-18

Sincerely,

J-108

Commenter 032

NRC
Chief, Rules and Directives Branch
Division of Administrative Services
US Nuclear Regulatory Commission
Washington DC 20555-0001

NUREG-1790/Docket 70-3103

The following are my comments on the proposed Louisiana Energy Services, Urenco uranium enrichment plant.

I question the validity of the statement pg xix line 43 that the facility would contribute to the attainment of national energy security policy objectives. What good are these objectives if national and state security are compromised? With the world as we know it today there are many issues that are raised when one refers to national security. This draft indicates that nonproliferation, public scoping, and safety and security are not considered in the environmental impact. How can that be when all of these are a factor in this unstable world? If this technology were stolen again as it was before with AQ Khan then it would impact our environment by possibly making our city, state and country vulnerable due to espionage. If there is an attack of any type on the facility, would that not constitute a national security due to the potential disbursement of radioactive fall-out caused by an explosive?

Comment #032-19

Per the no action alternative pg xx enrichment services would continue to be met by our friends and allies with existing domestic and foreign uranium enrichment suppliers-still a viable alternative to this plant. Still a saner alternative is to divert all research and development to a better and safer source of electricity development such as wind turbines and solar energy.

Comment #032-20

On pg xxiii, reference to public and occupation health and safety line 40-47 I find totally unacceptable since at this point in time there is no radiation or accidents involving radioactive materials so the most severe accident caused by rupturing an overfilled/overheated cylinders. It is a fact that the risks of regular low dose radiation can be a carcinogen at some point in time.

Comment #032-21

Reference pg 1-3 line 19-39 the 2002 letter to NRC from DOE indicates that the DOE made several recommendations and the last refers to Urenco as a partner, I question whether the US had knowledge of the espionage and status of the stolen secrets and plans that have been discovered about AQ Khan when this letter was written and whether this information is valid today? He has been acknowledged as the Father of The Pakistani Bomb after stealing the centrifuge technology secrets and used them to develop the technology in his homeland. Is this the kind of company the US wants to deal with for the next generation?

Comment #032-22

Reference pg 1-10 line 44-48, since the NM Governor has decided to withhold the Ground Water Discharge Permit it is evident that there may be other factors that are not agreeable with our Governor as has recently been divulged to the public regarding the disposition of the waste.

Comment #032-23

Reference pg 1-16, it is stated that there were no cooperating agencies involved with the scoping process, but since this process was started there has been information

Comment #032-24

forthcoming about this LES company contributing to NM Governor Richardson's' pet program, Move On.Org. This is what I would consider a possible conflict of interest in the license application since it may prove compromising to the Governor's Office. *Comment #032-24 (cont.)*

Reference page 2-2 table 2-1 reflects that construction will be 3 years then some operations will begin and construction will continue for 5 more years so actual full operations will only be 14 years, then decommissioning starts. It would appear that there will be a very moderate amount of time spent in the actual full operations of the plant so then the US would have to look for alternative to the plant again. This does not seem like a very cost effective operation, or a safe operation considering there are alternative energy sources that could be tapped during this 30-year span of time, which could be safer to the human species and our external environment. *Comment #032-25*

On page 2-12 the table reflects projected earning for the temporary construction workers but I find nothing in the draft concerning pay and description of the plant workers, I have asked for this information before, why will this information not be divulged? It certainly falls under the socioeconomic issues at stake. *Comment #032-26*

Page 2-21 line 3 states the sludge from the water pit will be removed at the end of the 30-year plant life once during decommissioning phase. Since this area does get rain deluge on a periodic basis this sludge must be removed on a regular basis, not just once in a lifetime. *Comment #032-27*

Page 2-25 line 42-43 should be thrown out of the draft; it assumes there is a licensed low-level radioactive waste disposal facility, there is none. *Comment #032-28*

Page 2-27 line 43-47 should be thrown out of the draft, it assumes there is/will be a licensed low-level radioactive waste disposal facility, there is none, this is not a viable assumption to make. *Comment #032-29*

Page 2-29 refers to disposition of hydrogen fluoride gas to acid and calcium fluoride and how there will be more than the DUF6 to dispose of; there will be additional toxic wastes that will need to be disposed of as well. The no action alternative would mean there would be no wastes at all to be disposed of, therefore the disposition of these wastes and lack of a viable plan to rid the waste should not be assumed to be satisfied. There is no contract, no contingency in place with said ConverDyn, no construction of a conversion facility that can even be considered as a viable plan to dispose of the waste. This should be thrown out of the draft. *Comment #032-30*

Page 2-31 indicated disposal options that do not meet the criteria as viable options for the waste disposal. Line 19 proposes using an abandoned mine but certainly nothing has come about with this option since no one wants the waste generated by LES. This should be thrown out of the draft as an option. The other options detailed on 2-31 and 2-32 also prove to be uncertain since none of the facilities listed can accept this type of waste. All of these facilities should be disregarded as a viable waste disposal facility since none are licensed to accept the wastes. A no action alternative would be to continue as the US is currently doing and seek alternate methods of generating electricity, which I support. *Comment #032-31*

Page 2-39 refers to the US reliance of foreign sources of enrichment services and how an alternative would not meet the US national energy policies but still the US is willing to sponsor a foreign owned company and trust them with providing this service? Line 44 indicated is in DOE 2000a, obviously before the facts known about LES espionage history and AQ Khan. Does the government still feel the same about a foreign based/owned company having the this technology and just because it will be on US soil it will trust this company to carry on as if there past never happened? It seems to me that if the US can judge what countries like Iran and Korea can do about their uranium enrichment then these same countries would be within their rights to condemn the US for their involvement with this foreign owned company. *Comment #032-32 (cont.)*

Page 2-44 line 11-15 states that the NRC staff assumes all DUF6 will be converted to U308 and will be disposed of in a licensed facility but I challenge the NRC to reevaluate this assumption since at present time there is no facility in existence in the US to convert DUF6 to U308 and there is no facility to put this waste in. This should totally negate the entire alternative for the waste disposal. The optimum situations and circumstances do not exist. This is not the time to dream of the ideal situations it is the time to develop and seek alternatives to nuclear energy. There are better and safer alternatives to nuclear power and the US should be the catalyst in the refinement of already known alternatives to nuclear power. *Comment #032-33*

Page 3-40 line 53-60 are a review of what we already know about the Ogallala Aquifer and the future regional demand for water that would deplete Lea County's current water supply. There are projected shortages and specific recommendations that have been made by the State Engineer's Office and these items should be identified and acted upon before Lea County takes it upon it self to support the operation of this plant by authorizing our valuable water commodity to be sold to the highest bidder. *Comment #032-34*

Page 3-56 line 15 refers to Prime Care Health Clinic; this clinic was abandoned by its parent hospital and is not open. There is no clinic open for business in Eunice as of this date. *Comment #032-35*

Page 3-56 line 18 states that the public safety with this vicinity includes fire support provided by Eunice Fire and Rescue Service but since I am a resident of the Eunice Community I challenge that this Service can meet the necessary requirements of a useful and productive Fire and Rescue Service. There have situations just recently where our Fire and Rescue service could not respond to emergency either due to lack of personnel and in one situation on an emergency ambulance run, the patient/victim had to walk to the ambulance because the personnel responding could not perform their duties because they did not know how to operate the gurney for patient transport. This community may tolerate this type of ignorance and incompetence in this situation but will they in an emergency situation involving terrorist activity or major fire or injury situation? I don't desire to find out if they are capable, we have a very small and inexperienced volunteer fire department and frankly I do not think they are capable of handling any real, large and dangerous emergency. I do not desire to discredit my neighbors but we are not a sophisticated community and we are neither knowledgeable nor experienced in big time disasters. *Comment #032-36*

Page 3-63 Line 6-8 refers to an extra effort made to meet with reps of the African-American and Hispanic groups, who and where was this effort actually made. Certainly was not in Eunice, I am Hispanic, my husband is African-American and certainly we live in the south/west side of Eunice and I have interviewed several people in this area and we were not contacted by LES nor the NRC. Did these groups of people actually participate and contact those directly affected by the plant, or are they from Hobbs, 20 miles away? This needs to be addressed in detail. *Comment #032-37*

Page 4-8 lines 19-24 refer to operations and air quality, the pollutants that are released to the air during this plant operation period. This is unacceptable; our air quality is poor on *Comment #032-38*

some days anyway due to hydrogen sulfide in the area due to the oil industry now we must endure additional caustic/toxic emissions. Zero emissions in the only acceptable alternative.

Comment #032-38 (cont.)

Page 4-15 lines 42-49 refers to the Ogallala Aquifer an a nonrenewable water source and future demand for water in the region would exceed the recharge rate, the present local water supplies could be affected. Knowing that our water supply is in jeopardy now and in the future it is appalling to me to see and hear the water officials in Lea County endorse this facility without regard to the future. Water conservation for the local population is one thing but to allow a polluting plant to use the water we need is inexcusable. LES should drill their own water wells and get their own water source other than ours. Why is the state of NM undergoing water conservation policy changes if they are willing to just negotiate our water rights away?

Comment #032-39

Page 4-36 Lines 5-17 refer to the largest impacts on the general public which include the magnitude of higher than the direct radiation and inhalation of the radioactive material in a postulated accident, I would like this detailed so that all the public would know of the symptoms and effects of any such postulated accident.

Comment #032-40

Page 4-39 lines 1-24 refers to potential chemical accidents to the public in an accident by rail or truck, I would like more information regarding the gravity of such an accident occurring. Gov Mackie, Colorado is very much against the transportation of such material as the waste across his state since there have been several rail accidents that have occurred in Colorado over the last year. I too have many questions and I believe all the Governors and state officials of all the states involved in the "alternative " methods of waste disposal should be made aware that this company is assuming that the waste product and/or enriched uranium can travel any place that they wish to ship it to.

Comment #032-41

Page 4-40 lines 23-37 reviews the summary of transportation accident impacts, I would like more information on how latent cancer fatalities are calculated, I am a lay person and I require these references to be described in details that an average lay person understands.

Comment #032-42

Page 4-44 lines 31-42 refers to the public exposure to the radioactive material released to the atmosphere and the expected exposure pathways of material deposited on the ground which could in affects not just people but livestock, and food sources such as leafy vegetables, carrots, potatoes and beef from nearby grazing livestock that may be eaten. This is totally unacceptable to me. I grow my own vegetables and beef and the idea that my food, which I grow, to avoid unnecessary pesticides and chemicals, will now be tainted by dangerous radioactive nuclides is abhorrent and totally unnecessary. Why should I accept less than zero emissions from this facility? Why can't the hepa-filtered air not just be recirculated back into the plant? Anyone working for this organization knows what this facility and its operations are so let it just be part of their on the job hazard to breathe their own pollutants.

Comment #032-43

Page 4-48 lines 4-30 refer to the high consequence events and intermediate consequence events, I am concerned about all these items, please detail all the dangers and actions that would be required to take place on each specific event listed. Also detail what emergency notification would be given to the public and how quickly can this information go out. Who would prepare and give out this necessary information? Would it be radio, tv, or the city government?

Comment #032-44

Page 4-48 lines 36-42 refers to accident consequences, in any hypothetical situation there are procedures in place to prevent these from occurring, but how does the NRC judge that a few DUF6 cylinders if on fire or leaking pose small to moderate impacts if just a few people get hurt or die? It would seem to me that the families of those few injured or dead people might think it's more than a small or moderate impact to their lives. Would there be monetary compensation to these families in this type of scenario?

Comment #032-45

Page 4-53 and 4-54 outline the routes for the waste and possible adjacent private conversion facilities they are somewhat unspecific and certainly questionable since there is no conversion facility in this country as of this date. The details are nothing more than a wish list since there in no contingency contract with any of these dream companies outlined. These items should not be considered since they do not exist.

Comment #032-46

Page 4-72 lines1-34 refers to the unavoidable exposure of the public and workers to radiation and chemicals. This is totally unacceptable to this community because although the surrounding communities are willing to put our health and lives on the line for their monetary gain, we choose not to be guinea pigs. Zero emissions and zero contaminated water are the only acceptable alternatives.

Comment #032-47

I request the Nuclear Regulatory Commission deny the license for Louisiana Energy Services due to the many holes in the waste disposition alternatives and the growing public opposition to this plant project.

Comment #032-48

Sincerely yours,

Rose Gardner
Box 514
Eunice NM 88231

Commenter 032

1-7-05
NUReg 1790 / Docket 70-3103

Anna Bradford -

Ms Bradford,
I'm forwarding ~~copy~~ originals of documents faxed on Dec 17, 2004. Also find cy of editorial from Eunice News dated Dec 16, 2004. How sad for ~~of~~ those of us in Eunice who must put up with not just big business and those that will profit by this uranium enrichment plant, but from the narrow minded and ignorant that write up articles and call their side (the only side) right. Not just right but this person thinks he can tell the Governor how to do things. Indeed how sad for Eunice, we call this stuff "news".

Rose Gardner

Cy: Bill Richardson, Governor NM

Comment #032-050

J-111

Eunice News

DECEMBER 16, 2004

MURPH SEZ

Not in my backyard! This is what Governor Bill Richardson has been saying lately concerning the waste and by-product that will be generated by the National Enrichment Facility proposed to be built near Eunice.

At least he's consistent with his statement. He's said it from the very beginning and he's still saying it.

The funny part about this entire scenario is that the NEF plant is not in the waste storage business to begin with. They never have been and they never will be. It's just not in their bag. They enrich rods for nuclear electric plants.

What's even more funny about this whole thing is the Governor is telling us it's okay to create this waste and by-product, but by golly, let's get it out of New Mexico as soon as it is generated.

This is the biggest problem we have in the whole country. There just aren't enough disposal plants to store this stuff properly in the first place.

If the Governor really has all of his faculties going for him, he would be looking to make Southeast New Mexico the Nuclear Corridor of the whole country. It's a natural!

We have the WIPP Site, we have Waste Control Specialists, and we will soon have the NEF plant.

We also have the advantage of Los Alamos Labs and the Sandia Corporation. These people have years of experience and have spent billions of dollars supporting their research.

The geological make up of Southeast New Mexico and West Texas is probably the best and most unique division in the United States.

I'm sure our Governor knows this already and instead of giving out state all this rhetoric about what to do with the storage of waste and by-product, he needs to be thinking of ways that will benefit the state and the nation.

Other countries are doing it and with the knowledge and experience we have just in New Mexico, we should be the forerunners in nuclear energy and the storage of what we generate.

Don't forget, it was New Mexico that developed and exploded the first bomb. So why shouldn't New Mexico know more than any other state on what to do with the waste in a safe way?

It sounds to me like political propaganda coming from the Guv and he is trying to straddle the fence. One leg for the business opportunities and one leg for the environmentalists.

Not in my backyard is just a ruse. The governor needs to get off the fence before he mangles himself. He needs to put New Mexico in the situation where we benefit not only our state, but the entire country.

We have the opportunity and the resources. So, let's take the bull by the horns and do it the right way.

Commenter 033

From: "PHILLIP BARR" <pharb2@msn.com>
To: <nrcrep@nrc.gov>
Date: Fri, Jan 7, 2005 8:23 PM
Subject: Louisiana Energy Services in Lea County

I believe the Les plant should not be licensed because the emissions expose over 30,000 people to the following substances. These substances are known to be harmful to humans. I believe the NRC is ignoring this fact and licensing the plant will put a lot of people at risk.

radioactivity:

uranium-234
uranium-235
uranium-236
uranium-238
gross alpha
thorium (decay product of uranium)
actium (decay product of uranium)
radium (decay product of uranium)
depleted hexavalent uranium
triuranium octaoxide (U3O8)
uranyl fluoride (UO2F2)

toxics:

volatile organic compounds
carbon monoxide
nitrogen dioxide
particulates

Comment #033-1

Phillip Barr
Lea County

you legal types keep a copy of this for future reference

CC: "Timothy Johnson" <TCJ@nrc.gov>, <cellis@branchlawfirm.com>, "Kathy Helms" <khelms@frontiernet.net>, <Sally_Worthington@nmenv.state.nm.us>, "Wenonah Hauter" <whauter@citizen.org>, "Ned" <Ned.Farquhar@state.nm.us>

Commenter 033

From: "PHILLIP BARR" <pharb2@msn.com>
To: <nrcrep@nrc.gov>, "nmlady2000" <nmlady2000@hotmail.com>, <sandra_ely@nmenv.state.nm.us>, "Karen Keith" <keithd2@cox.net>, "mlgav" <mlgav@hotmail.com>
Date: Wed, Nov 10, 2004 2:54 PM

I believe the emissions from the proposed Les enrichment plant will be deposited into the loose topsoil we have in this area.
Seasonal winds from the south , some can be in excess of 50mph , will eventually blow the contaminated soil north over Hobbs.
This poses health risks for everyone between that plant and Hobbs.
Every man, woman, and child.
That is over 30,000 people.
I believe that if that plant goes into operation, the state of New Mexico and the federal government should be financially responsible for all new cancer cases in contaminate field: Hobbs and Eunice and surrounding areas.

As a 25 employee of the City of Hobbs, I hauled quite a few loads of trash to the landfill that is located on the same road as the LES site.
On many occasions, I noticed strong winds blowing to the west.
Radioactive pollutants will be deposited heavily on Eunice.

Comment #033-2

One or more of the evaporative ponds that will hold radioactive water pose a health risk also.
I believe using pit liners under a body of radioactive water is a substandard idea for safety reasons.
If the water table becomes contaminated, again the state and federal government should assume all costs.

Comment #033-3

Les is an underfunded shell company. Its parent company Urenco has a reputation for dishonesty. If there are any problems, Les will simply go bankrupt.

Comment #033-4

Our City and County leaders have failed to provide full disclosure on the effects of the LES plant to the people here.. LES officials have failed to provide full disclosure to the people here.

Comment #033-5

==========
source EIS for the National Enrichment Facility in Lea County New Mexico

CC: "Ned" <Ned.Farquhar@state.nm.us>, <info@fritzlawfirm.com>, <bcrooke@elllaw.com>, <jrobertson@elllaw.com>, <klawetter@easthamlaw.com>, <info@baronbudd.com>

Another sensitivity test was conducted to investigate possible effects of strong southerly but not extreme winds (again between 8 meters per second [26.2 feet per second] and 14 meters per second [45.9 feet per second]) on pollutant concentrations, when pollutants may possibly reach Hobbs. March 10, 1991, was selected for this simulation and 24-hour average concentrations were estimated. The wind speed was approximately 10 meters per second (32.8 feet per second) from 9 a.m. until 10 p.m., mostly from the south, and stability was neutral. Figure E-9 shows the results from this simulation. Average 24-hour concentrations are shown as a shaded image overlaid on a schematic map of the study area. The figure shows a narrow plume extending to the north from the source.

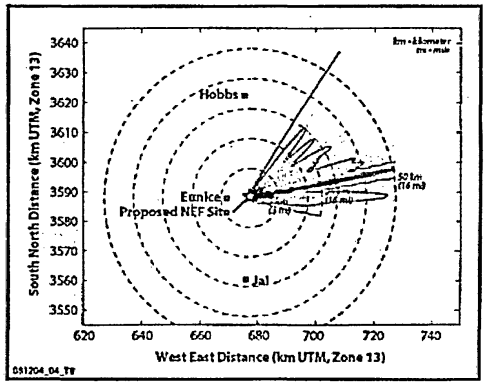


Figure E-8 Average 24-Hour Concentrations of Pollutants in Extreme Winds from the West-Southwest

These sensitivity tests indicate that pollutants may possibly reach Hobbs during strong wind episodes. However, atmospheric conditions when winds can be characterized as "gale" or "storm" are rare, and levels of concentrations are expected to be significantly lower at distances greater than 25 kilometers (15.5 miles). Spatial gradients in modeled pollutant concentrations were also estimated. A sensitivity test was conducted for the same day (March 10, 1991), with winds from the south, so the plume extends to the north from the proposed NEF source. The results from this simulation are shown in Figure E-10. The figure shows the decrease in concentrations at the plume centerline due to dispersion processes as a function of distance from the source. As can be seen from the figure, the concentration decreases by a factor of 1,000 when the possible plume from the proposed NEF reaches Hobbs.

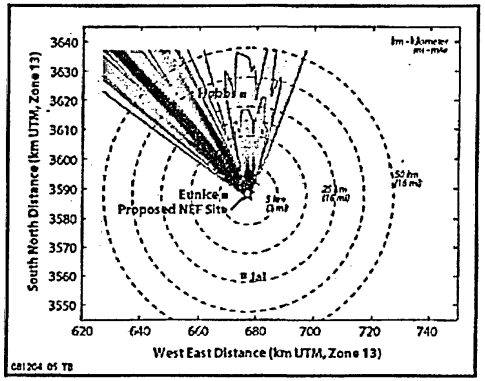


Figure E-9 Average 24-Hour Concentrations of Pollutants in Strong Southerly Winds

Commenter 033

From: "PHILLIP BARR" <pharb2@msn.com>
To: <nrcrep@nrc.gov>, "Ned" <Ned.Farquhar@state.nm.us>, <sandra_ely@nmenv.state.nm.us>, <sf.nancy@mail.house.gov>, <Sally_Worthington@nmenv.state.nm.us>
Date: Mon, Nov 15, 2004 10:28 AM
Subject: statement on ---Licensing of the proposed LES uranium enrichment plant in Lea County-

I believe the Les plant emissions will get into the loose topsoil we have in this area. Successive seasonal high winds that blow from the south that we have in this area will carry the loose radioactive soil over Hobbs. Winds also blow to the west in this area. Eunice will get contaminated soils also. Pathway for emissions from the Les plant to humans will be the sandstorms. I believe the licensing of this uranium enrichment plant poses a long term health risk to over 30,000 people.

Comment #033-6

Phillip Barr
Lea County, New Mexico

You legal guys should save this one for future reference

CC: <info@fritzlawfirm.com>, <bcrooke@elllaw.com>, <jrobertson@elllaw.com>, <klawetter@easthamlaw.com>, <info@baronbudd.com>, "Wenonah Hauter" <whauter@citizen.org>

Commenter 033

From: "PHILLIP BARR" <pharb2@msn.com>
To: <nrcrep@nrc.gov>
Date: Sun, Dec 26, 2004 6:33 PM
Subject: Comment against licensing of LES uranium enrichment plant in Lea County, NM.

Valley Fever (coccidiodomycosis) is an incurable disease caused by the inhalation of C. immitis, a fungus which permanently becomes a parasite in its host. The organism that causes it is commonly found in the soil of the southwestern United States, Mexico, and parts of Central and South America. ***Comment #033-7***

The Center for Disease Control states that C. Immitus could be used as a weapon of biowarfare or bioterror via aerosol delivery

Valley fever can activate or reactivate at any time in ones life with dire consequences and may never show up on a blood test.

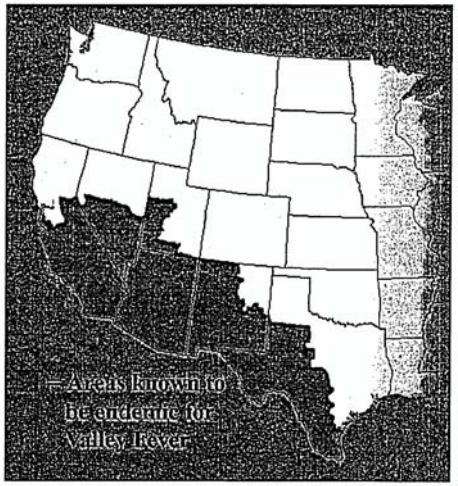
The radioactive emissions from the LES plant would tend to sterilize the soil and if any new C. immitis is later blown into a sterilized area there would be no natural competition for space and the fungus would find an environment it could thrive in.. Seasonal high winds in this area can hit over 50mph+ and they usually blow in a northerly direction. North of the Les site is over 30,000 people within 25 miles.

Valley fever is incurable and allowing the Les plant to operate with these emissions poses an unacceptable risk of making this existing natural hazard worse, causing major health problems to the public. . ***Comment #033-7 (cont.)***

source of
map=http://www.valleyfeversurvivor.com/history.html<http://www.valleyfeversurvivor.com/history.html>

Phillip Barr
Lea County

CC: "Kathy Helms" <khelms@frontiernet.net>, "Ned" <Ned.Farquhar@state.nm.us>, "Wenonah Hauter" <whauter@citizen.org>, <lindsay@lindsaylovejoy.com>



Commenter 034

From: "Fisher, Karen" <KFisher@ago.state.nm.us>
To: "nrcrep@nrc.gov" <nrcrep@nrc.gov>
Date: Mon, Oct 18, 2004 3:27 PM
Subject: Docket No. 70-3103

Dear Sir/Madam:

Is the Draft Environmental Impact Study, which was issued on 09/17/2004 in the referenced case, available in Spanish? ***Comment # 034-1***

Karen L. Fisher, MBA
Assistant Attorney General
Water, Environment & Utilities Division
New Mexico Attorney General's Office
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Email: kfisher@ago.state.nm.us

Commenter 034

From: "Fisher, Karen" <KFisher@ago.state.nm.us>
To: <nrcrep@nrc.gov>
Date: Sat, Dec 18, 2004 4:10 PM
Subject: NUREG-1790

Dear Sir or Madam:

Attached please find the comments of the New Mexico Attorney General's Office to the Draft Environmental Impact Statement for the Proposed National Enrichment Facility (NUREG-1790).

Karen L. Fisher, MBA
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New Mexico Attorney General's Office
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<<LES EIS Comments.pdf>>

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PATRICIA A. MADRID
Attorney General

STUART M. BLUESTONE
Chief Deputy Attorney General

December 18, 2004

Chief, Rules Review and Directives Branch
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

RE: Report No. NUREG-1790, Draft

Dear Sir or Madam:

The Staff of the New Mexico Attorney General's Office ("AGO") is submitting these comments to the Draft Environmental Impact Statement for the Proposed National Enrichment Facility in Lea County, New Mexico ("EIS") to the U.S. Nuclear Regulatory Agency ("NRC"). In the first section, we will discuss our general, overall comments. In the second section, we will provide specific, line-by-line comments.

GENERAL COMMENTS

Overall, the EIS is well written and organized. However, we have several general concerns about the EIS, as follows:

1. Selection of Alternatives

We are very troubled that the EIS considers only the preferred alternative and the no-action alternative. On page 2-39 of the EIS, the decision is explained: "None of the candidate sites were *obviously superior* to the [Louisiana Energy Services ("LES")] preferred site in Lea County, New Mexico; therefore no other site was selected for further analysis." (emphasis added)

Comment #034-2

This is not the appropriate legal standard for evaluating the inclusion of alternatives under the National Environmental Policy Act ("NEPA"), 42 U.S.C. § 4321 *et seq.* Rather, the NEPA and its implementing regulations make it clear that appropriate and reasonable alternatives must be fully evaluated.

NEPA provides: "[A]ll agencies of the Federal Government shall-- . . . **(E)** study, develop, and describe *appropriate alternatives* to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources; . . . ." Section 102(2) of NEPA, 42 U.S.C. § 4332(2) (emphasis added).

The NEPA implementing regulations for the NRC state: "[D]raft environmental impact statements should also include consideration of the economic, technical, and other benefits and costs of the proposed action and alternatives . . . ." 10 C.F.R. § 51.71(d). This Section goes on to clarify that the alternatives to be considered are "reasonable alternatives." *See* 10 C.F.R. § 51.71(e).

The Council on Environmental Quality ("CEQ"), the federal agency with NEPA oversight authority, has also promulgated NEPA implementing regulations, which are binding on other federal agencies conducting NEPA analyses. 40 C.F.R. § 1507.1. CEQ regulations explain that the purpose of evaluating "reasonable alternatives" is to fully "inform decisionmakers and the public." 40 C.F.R. § 1502.1; *see* 40 C.F.R. § 1502.14. This laudatory policy is undermined by conclusory statements, such as the one contained in the EIS that alternative sites were not analyzed because they were not obviously superior to the preferred alternative.

The Tenth Circuit recently considered the selection and analysis of alternatives under NEPA in a case involving an environmental assessment. *Davis v. Mineta*, 302 F.3d 1104 (10th Cir. 2002). The court criticized the federal agency (the Department of Transportation) for failing to analyze a reasonable alternative when there was nothing "in the record to establish that [the alternative] is such a 'remote, speculative, impractical or ineffective' alternative that it did not need to be studied as a viable alternative." *Id.* at 1122. The court concluded: "There are no cost studies, cost/benefit analyses or other barriers advanced that would warrant a conclusion that [the unconsidered] alternatives are unreasonable, standing alone or in conjunction with other alternatives."

J-116

Comment #034-2 (cont.)

In this case, the NRC is preparing an environmental impact statement rather than an environmental assessment. Thus, greater detail of discussion is required, because as the Tenth Circuit has made clear an environmental impact statement must be conducted with more rigor that an environmental assessment. *See Utah Shared Access Alliance v. United States Forest Service*, 288 F.3d 1205, 1213 (10th Cir. 2002). However, in light of the legal requirements outlined above and the paucity of discussion of alternative sites in the EIS, the AGO is concerned that that the EIS may fail to comply with NEPA in this respect. The AGO urges the NRC to revisit the issue of selection and analysis of alternative sites.

2. Impacts to Water Resources

The AGO is very concerned about protecting New Mexico's water resources and is concerned that the EIS provides insufficient information to evaluate fully whether the National Enrichment Facility ("NEF") would be sufficiently protective. For example, with respect to off-site migration of contaminants through groundwater, there is no discussion of the potential transmission pathways to deeper groundwater. The EIS should include identification and analysis of these potential pathways, such as domestic wells, abandoned wells, geologic faulting and areas of exposure of aquifer-supporting geologic formations. It is particularly important that the EIS examine potential contaminant pathways to the Ogallala Aquifer, because as noted in the EIS the Ogallala Aquifer is of critical regional significance. *See* Section § 3.8.2.1 at 3-37.

Comment #034-3

Comment #034-4

In several places, the EIS notes that wastewater from the NEF could be transported through groundwater to a location 3.2 kilometers (2 miles) from the site. *See* Section 4.2.6.2, page 4-13, lines 38-46; Section 4.2.6.2, page 4-14, lines 19-22. The EIS also notes the possibility of off-site transport of stormwater. Section 6.2.2, page 6-18, lines 26-27. However, the EIS fails to discuss the resulting impacts to human health and the environment. For example, is this migration likely to cause an exceedance of New Mexico water quality standards? If so, how will exceedances be addressed? Even if the groundwater and surface water contamination levels comply with water quality standards, will there be injury to New Mexico's trust resources, such as nearby uncontaminated groundwater and surface water and biota? In addition, what is the potential impact to private property rights, such as vested water rights? LES is not permitted to cause injury to these trust resources or private property rights.

Further, it would appear that the stormwater from the NEF that will contain the highest concentration of radionuclides is being discharged to a single-lined retention basin. *See* IES Section 4.2.6.2, page 4-11, line 49 to 4-12, line 5. The EIS acknowledges, "Exposure to uranium may occur from . . . releases of radioactive liquids to surface water." As discussed, we are concerned about off-site migration of wastewater and stormwater, and a discharge of radioactive stormwater to a single-lined basin has the potential to increase that risk to an unacceptable level. The EIS should quantify these risks and contain further discussion and analysis of the threats to groundwater and surface water so the decision maker and the public can make an informed decision regarding the acceptability of these risks.

Comment #034-5

3. Impacts of Long-Term Storage of DUF_6

It is undisputed that there currently is no conversion facility that could accept DUF_6 generated at the NEF. The EIS acknowledges that DUF_6 would be stored at the NEF for up to 30 years while disposal options are developed. *See* Section 4.2.14.3, page 4-52, lines 39-41. However, the EIS fails to analyze the impacts to human health and the environment if the efforts to develop these disposal options are unsuccessful. The AGO is very concerned about the seriousness of this omission.

Comment #034-6

Under NEPA, a potential effect must be analyzed if it is reasonably foreseeable. 40 C.F.R. § 1508.8. "As in other legal contexts, an environmental effect is 'reasonably foreseeable' if it is 'sufficiently likely to occur that a person of ordinary prudence would take it into account in reaching a decision.'" *Mid States Coalition for Progress v. Surface Transportation Board*, 345 F.3d 520, 549 (8th Cir. 2003) (quoting *Sierra Club v. Marsh*, 976 F.2d 763, 767 (1st Cir. 1992)). In other words, the effect need not be certain to occur.

In this case, the inability of LES to identify adequate conversion and disposal options, when none currently exist, is a classic example of an effect that is not certain, but is of sufficient likelihood that analysis is required under NEPA. Without a full discussion of the impacts of long-term storage on human health and the environment, the EIS fails to provide the necessary information to insure that future generations are not unduly burdened by the NEF's generation of large volumes of radioactive waste. *See Nuclear Energy Institute, Inc. v. Environmental*

Protection Agency, 373 F.3d 1251, 1284-85 (D.C. Cir. 2004). The AGO is very concerned that, by failing to consider this issue, the EIS may not comply with NEPA.

SPECIFIC COMMENTS

This section addresses specific comments following the organization of the EIS. It should be assumed that comments mentioned for particular chapters also apply to parallel discussions, if any, in the executive summary.

Section 1.6, pages 1-18 to 1-19 — The State of New Mexico owns the fee interest in the land upon which the NEF will be sited, so it would be appropriate to list the State as an organization involved in the proposed action. ***Comment #034-7***

Section 2.1.9, page 2-27, lines 38-41 — Throughout the EIS, it is assumed that the DUF_6 generated at the NEF would be categorized as a Class A low-level radioactive waste. *See, e.g.*, Section 4.2.14.2, page 4-52, lines 14-15; Section 4.2.14.4, page 4-58, line 37. However, the NRC has not yet ruled on this issue. Therefore, the EIS should identify and analyze alternative storage, conversion and disposal options if the DUF_6 is not categorized as a Class A low-level radioactive waste. ***Comment #034-8***

Table 2-8, page 2-52 — Under the No-Action Alternative column, the following sentence does not make sense: "Long-term uncertainty in future supplies of low-enriched uranium could be affect without replacement enrichment capacity for the existing U.S. enrichment facility or from the potential ending of the 'Megaton to Megawatts' program in 2013." ***Comment #034-9***

J-117

Table 2-8, page 2-55 — Under the Proposed Action column, it appears that text is cut off at the bottom and missing. ***Comment #034-10***

Table 2-8, page 2-56 — In the third sentence under the Proposed Action column, for clarification, we suggest you insert *of radiation exposure* in between *(5 millirem)* and *per year*. ***Comment #034-11***

Table 2-8, page 2-56 — Under the Proposed Action column, it appears that text is cut off at the bottom and missing. ***Comment #034-12***

Table 2-8, page 2-57 — Under the Proposed Action column, the final sentence in the first paragraph is inaccurate. The sentence states: "There would be enough existing national capacity to accept the low-level radioactive waste that could be generated at the proposed NEF." Throughout the EIS, it is acknowledged that there is no facility currently operating that could convert the DUF_6 generated at the NEF for disposal. If this reference is not intended to include DUF_6 it should so state, and then address the national capacity for converting and disposing of DUF_6. ***Comment #034-13***

Section 3.12, page 3-65, line 28 — This sentence indicates that Eunice, New Mexico is east of the proposed facility, but in fact Eunice is west of the site. ***Comment #034-14***

Comment #034-15

Section 4.2.4.1, page 4-7, lines 31-33 — We disagree with this statement. As noted by the New Mexico Environment Department in its comments dated November 8, 2004, PM_{10} is a concern in this area of New Mexico. The EIS should address this issue in more detail.

Table 4-1, page 4-8, lines 11-12 — As noted in the preceding comment, PM_{10} is a matter of concern. These model results indicate that the NEF will generate a 24-hour maximum of 144 $\mu g/m^3$ of PM_{10}. This amount is very close to the primary regulatory limit of 150 $\mu g/m^3$,[1] and in light of the fact that an exceedance for PM_{10} has been recorded for Hobbs, New Mexico, the conclusion that the potential impact to air quality is small is unsupported. The EIS should address whether the NEF's emissions of PM_{10}, when added to other sources in the vicinity, will cause an overall exceedance, particularly since a quarry is nearby and could be expected to emit significant amounts of particulates, *see* Figure 3-3, page 3-3. In addition, the EIS should contain a more detailed explanation of how an exceedance for PM_{10} would be prevented. The general references throughout the EIS to dust suppression are inadequate to inform the decision maker and the public fully on this issue. ***Comment #034-16***

Section 4.2.4.2, pages 4-8 to 4-9 — The references to the total amount of hazardous air pollutants emitted are inconsistent. Line 32 on page 4-8 and line 6 on page 4-9 erroneously indicate a limit of 91 metric tons (100 tons) per year, but line 24 on page 4-8 correctly references a limit of 9.1 metric tons (10 tons) per year. ***Comment #034-17***

Section 4.2.5.1, page 4-10, lines 12-14 — The EIS should explain how penetration of the clay layer would affect off-site transmission of contaminants through groundwater. ***Comment #034-18***

Section 4.2.5.1, page 4-10, lines 21-22 — It is inaccurate to state that "site preparations and construction result in only short-term effects to the geology and soils," because the effect of the NEF footprint on geology and soils will be long term. *See* Section 4.7, page 4-72, lines 24-25. ***#034-19***

Section 4.2.5.2, page 4-10, lines 28-29 — The statement that "the rate of wind and water erosion of the exposed surface soils surrounding the proposed NEF site would likely be small" is conclusory. The EIS should explain why this is so, and how this conclusion was reached. ***#034-20***

Section 4.2.6.1, page 4-11, lines 25-27 — Based on discussion elsewhere in the EIS, it appears that a large portion of the water used during construction will be used for dust suppression. Therefore, the design estimates for the Claiborne Enrichment Facility are applicable only to the extent that the climatic and soils conditions are similar or adjustments based on differences have been made. The EIS needs to explain the underlying rationale for assuming that the two facilities are comparable in this regard. ***Comment #034-21***

Section 4.2.6.2, page 4-12, lines 40-43 — This discussion assumes that water buildup in the evaporative basin would be gradual. The EIS should discuss how overflows would be prevented ***Comment #034-22***

[1] It should be noted that this table erroneously identifies this standard as secondary. The standard is primary. *See* Table 3-6 at 3-21.

Comment #034-22 (cont.)

in instances of rapid buildup, such as a valve failure or burst pipe, or a discussion of how a rapid water buildup would be prevented under such circumstances.

Section 4.2.6.2, page 4-13, lines 38-46 — The fact that "[t]here are no ground-water users within 3.2 kilometers (2 miles) downgradient of the proposed NEF site, and there are no downgradient users of ground water from the sandy soil above the Chinle Formation" is not relevant to the question at hand, whether seepage from the Site Stormwater Detention Basin has the potential to contaminate groundwater. As far as we are aware, there is no legal constraint, other than State Engineer permitting, that would prevent the construction of a shallow groundwater well next to the NEF property line. Therefore, the analysis should focus on the magnitude of impacts from this perspective. *Comment #034-23*

In addition, the EIS concludes, "the Site Stormwater Detention Basin seepage would have a SMALL impact on water resources of the area." However, this conclusion is contradicted by the immediately preceding statement that there is a potential for migration of seepage from the stormwater detention basin to a location 3.2 kilometers (2 miles) from the site. The potential for seepage needs to be examined and analyzed in much greater detail before an appropriate conclusion regarding the impact can be made. *Comment #034-24*

Section 4.2.6.2, page 4-14, lines 19-22 — Similarly, the conclusion that "[t]he septic systems would also be expected to have a SMALL impact on water resources" is directly contradicted by the preceding sentence acknowledging the potential for off-site migration to a location 3.2 kilometers (2 miles) from the site. As above, the potential for seepage needs to be examined and analyzed in much greater detail before an appropriate conclusion regarding the impact can be made. *Comment #034-25*

Section 4.2.7.1, page 4-17, lines 33-34 — This analysis fails to discuss the impacts on ecological resources from the use of pesticides, which Table 4-15 on page 4-51 indicates would occur. *Comment #034-26*

Section 4.2.7.2, page 4-18, line 24 — The EIS should explain why the level of safety required for the protection of humans is adequate for other animals and plants, since different species use natural resources and react to environmental toxins in very different ways. *Comment #034-27*

Section 4.2.7.3, page 4-18, lines 44-45 — The EIS should explain why netting would not be installed over the UBC Storage Pad Stormwater Retention Basin. As noted above, even if the concentration levels are within regulatory limits, LES is not permitted to cause damage to natural resources, such as waterfowl. *Comment #034-28*

Section 4.2.9.1, page 4-24, lines 4-6 — Impacts from increased traffic are summarized by the statement, "this period of inconvenience would be short." However, traffic impacts would last from the inception of construction through the last phase of decontamination, which would span 30 or more years. It is inaccurate to state that this is a "short" period of inconvenience. *#034-29*

Section 4.2.9.5, page 4-24, lines 44-47 — The observation that the nearest residence is 4.3 kilometers (2.6 miles) from the NEF, which is made throughout the EIS, diverts attention from *Comment #034-30*

Comment #034-30 (cont.)

the fact that residences could be established much closer to the NEF. The EIS should focus on analyzing the potential human health and environmental impacts to the general public with respect to the maximally exposed individual. The frequent references to the currently existing nearest residence could create confusion regarding the appropriate benchmark.

Section 4.2.9.5, page 4-25, lines 8-19 — The EIS should include discussion of relevant infant mortality rates, if available. This would be particularly helpful if the statistics can be broken out by race and ethnicity. *Comment #034-31*

Table 4-3, page 4-26 — The category of potential impacts to socioeconomic and community resources for recreation is identified in the table but not discussed in the text. The text should include a discussion of this impact. *Comment #034-32*

Section 4.2.10.1, page 4-27, lines 22-23 — The EIS indicates in a very generalized way that "[c]onstruction activities would be expected to occur during normal daytime working hours." It would be much more informative to the decision makers and the public if the term *normal daytime working hours* is defined. What hours of the day and what days of the week are included? How are holidays handled? Are they any exceptions to the general rule of limiting construction activities to these times, particularly since the EIS states that "short-term noise impacts *may* be limited to workday mornings and afternoons"? (emphasis added) *Comment #034-33*

Section 4.2.10.1, page 4-29, lines 8-10 and 20 — Despite finding that the "projected noise level ranges are within the U.S. Department of Housing and Urban Development (HUD) unacceptable sound pressure level guidelines," the EIS concludes that the impact on noise levels from site preparation and construction is small, noting that the duration is short term. However, the unacceptable noise levels would continue for several years, and the EIS fails to describe the impact on the maximally exposed individual. For example, if hearing loss were likely to occur for this individual, it would appear erroneous to conclude that the impact is small. This issue merits further discussion and analysis. *Comment #034-34*

Section 4.2.10.3, page 4-29, line 46 — In accordance with the preceding comments, it would be informative to the reader to expand upon the statement that "construction could occur during nights and weekends, if necessary." *Comment #034-35*

Section 4.2.11.1, page 4-30, lines 47-49 — We do not agree that a 188% increase in vehicular traffic on New Mexico Highway 234 results in a small to moderate impact. We believe this impact should be characterized as moderate to large. In light of this substantial increase in traffic, the EIS should further analyze this impact. For example, the EIS should quantify the expected additional expense to the State of New Mexico for increased road maintenance. The EIS should also discuss how this impact would be mitigated. For example, would LES contribute resources to the State to assist in maintenance and improvement of Highway 234 in the affected area? *Comment #034-36*

Section 4.2.11.1, page 4-31, lines 11-12 — The EIS should explain how the assumption was reached that a truck would have an average round-trip distance of 64 kilometers (40 miles). *Comment #034-37*

Section 4.2.11.1, page 4-31, lines 19-21 — It is unclear how the fact that the construction access roads will be converted to permanent access roads leads to a conclusion that the impacts from the construction access roads are small. Conversion of these roads will not cause a decrease in the amount of vehicular traffic on Highway 234. And the fact that the roads essentially will be constructed twice does not decrease other human health and environmental impacts. The EIS needs to contain further analysis and explanation of this issue. ***Comment #034-38***

Section 4.2.11.2, page 4-31, lines 45-46 — As above, the EIS should explain how the assumption was reached that a supply truck would have an average round-trip distance of 64.4 kilometers (40 miles). ***Comment #034-39***

Section 4.2.11.2, page 4-32, lines 41-42 — The EIS should explain why an assumption of stable meteorological conditions is appropriate for the NEF. ***Comment #034-40***

Section 4.2.11.2, page 4-37, lines 78-84 — This paragraph is virtually unintelligible. ***#034-41***

Section 4.2.11.2, page 4-40, lines 17-19 — The EIS fails to explain how the probability of occurrence of a transportation accident factors into the conclusion that the impacts could be small to moderate. It is almost inconceivable that impacts on up to 28,000 persons could be small to moderate unless the risk of such occurrences is infinitesimally small. Without an explanation of how probabilities influenced the conclusion, it is impossible for the decision maker or the public to make an informed decision regarding the acceptability of a risk with such a large potential impact. ***Comment #034-42***

Section 4.2.11.3, page 4-40, lines 24-25 and 28-29 — As above, we do not agree that an approximately 100% increase in vehicular traffic on New Mexico Highway 234 results in a small to moderate impact. We believe this impact should be characterized as moderate to large. In light of this substantial increase in traffic, the EIS should further analyze this impact. For example, the EIS should quantify the expected additional expense to the State of New Mexico for increased road maintenance. The EIS should also discuss how this impact would be mitigated. For example, would LES contribute resources to the State to assist in maintenance and improvement of Highway 234 in the affected area? ***Comment #034-43***

Section 4.2.11.3, page 4-40, lines 31-37 — It is misleading to discuss only cancer fatalities in connection with summarizing the potential impacts to human health for transportation accidents. There are other significant, concerning impacts identified in the preceding discussion, which should also be mentioned in the summary. ***Comment #034-44***

Section 4.2.11.4, page 4-41, line 2 — The EIS should state whether LES is being required to install dedicated turning lanes. As written, it sounds more like a mere suggestion. Also, as noted above, construction of dedicated turning lanes may be inadequate to mitigate the impacts of increased traffic on Highway 234. ***Comment #034-45***

Section 4.2.12.2, page 4-45, lines 4-11 and 37-39 — The UBC Storage Pad Stormwater Retention Basin is expected to by dry for 11 to 12 months of the year, *see* Section 4.2.6.2, page 4-13, lines 10-12, but there is no discussion of impacts to human health and the environment from resuspension of contaminated soil from this basin. Because the USB Storage Pad Stormwater Retention Basin would not be covered with netting, it could be expected that the resuspension factor for soils would be higher than for the Treated Effluent Evaporative Basin. There is no indication in Chapter 6 that either of these basins would be monitored for impacts to air quality. The EIS should address these issues. The EIS also should contain a discussion of the effect of this drying on the integrity of the liner. ***Comment #034-46***

Section 4.2.13.1, page 4-48, lines 22-23 and Section 4.2.13.2, page 4-48, lines 36-42 — The statements regarding the severity of the accident consequences are inconsistent. Section 4.2.13.1 identifies the selected accident sequences as high to intermediate in severity, yet Section 4.2.13.2 concludes that these accident scenarios pose acceptably low risks and small to moderate impacts. It is possible that this discrepancy is due to factoring in the probability of the selected accident sequences, but that cannot be determined from the EIS. The decision maker and the public cannot make an informed decision regarding the acceptability of these risks without a full discussion of probabilities of occurrence and how these probabilities factor into a conclusion regarding the magnitude of impacts. ***Comment #034-47***

Section 4.2.14, page 4-50, line 43 — The word *govern* should be replaced with the word *governed.* ***Comment #034-48***

Section 4.2.14.2, page 4-52, lines 9-10 — This statement regarding the generation of wastes needs clarification. Does this mean that the NEF would generate 86,950 kilograms (191,690 pounds) annually of purely radiological (nonmixed) waste? ***Comment #034-49***

Section 4.3.4, page 4-61, lines 41-47 — The discussion of solvents is inadequate. It does not identify what solvents would be emitted and whether these solvents are classified as hazardous air pollutants. If they are so classified, the EIS should analyze whether the NEF would have the potential to emit more than 10 tons per year of any single pollutant or more than 25 tons per year of any combination of pollutants. The analysis should be from the perspective of the NEF's *potential to emit* these pollutants, not the estimated actual emissions of such pollutants. *See, e.g.*, 42 U.S.C. § 7511a(b)(1)(A)(ii)(I). It would appear that the EIS erroneously relies on an estimate of actual emissions. The discussion of solvents needs to be expanded and clarified to address these issues. ***Comment #034-50***

Section 4.3.8, page 4-63, lines 34-35 — It would appear untenable to conclude that closure of the NEF would have a small to moderate socioeconomic impact if the NEF became the major employer in the Eunice, New Mexico area. It is more likely that the impact would be moderate to large under these circumstances. ***Comment #034-51***

Section 4.3.9, page 4-63, lines 39-42 — The statement regarding the NEF's environmental justice impacts during decommissioning is conclusory. The EIS should explain how this conclusion was reached. ***Comment #034-52***

Section 4.3.10, page 4-63, line 49 to page 4-64, line 1 — The statement regarding noise impacts lasting "for a few months" is confusing. The EIS indicates elsewhere that the decommissioning process will take 9 years. This apparent contradiction should be explained. ***Comment #034-53***

Section 4.4, page 4-65, lines 22-23 — The EIS should explain why there would not be cumulative impacts to these resource areas. Intuitively, it would appear that most if not all of these resources would experience cumulative impacts. ***Comment #034-54***

Section 4.4.3, page 4-66, lines 24-27 — The EIS should explain why it was appropriate to analyze only the Waste Control Specialists site for cumulative impacts to water resources, or it should include analyses of impacts from other nearby sites. ***Comment #034-55***

Section 4.4.4, page 4-66, lines 35-48 — As noted above, the EIS should discuss the cumulative impacts to air quality with respect to PM_{10} resulting from the operation of NEF in addition to the nearby quarry and other surrounding land activities. ***Comment #034-16 (cont.)***

Section 4.4.6, page 4-67, line 43 — The word *or* should be replaced with the word *of*. ***#034-56***

Section 4.4.6, page 4-67, lines 42-44 — The EIS should discuss cumulative impacts with respect to environmental justice resources during the operation and decommissioning phases of the NEF. ***#034-57***

Section 4.4.7, page 4-68, lines 8-9 — As noted above, the AGO disagrees that the impacts to transportation resources would be small to moderate. Therefore, we also disagree for the same reasons that the cumulative impacts to transportation resources would be small to moderate. ***Comment #034-43 (cont.)***

Section 4.7, page 4-72, lines 17-18 and 24-25 — It is unclear whether the commitment of 81 hectares (200 acres) of natural land is inclusive of the footprint for the NEF, which as noted in this section, would constitute a long-term commitment of terrestrial resources. The EIS should identify the amount of land that will be subject to such long-term commitment. ***Comment #034-58***

Table 5-1, page 5-2 — With respect to proposed mitigation measures for impacts to ecological resources, the EIS makes conflicting statements that trenches will not be left open overnight and that animal will be removed from trenches left open overnight. This apparent inconsistency should be resolved. ***Comment #034-59***

Table 5-1, page 5-5 — With respect to proposed mitigation measures for impacts to public and occupational health resources, the word *to* should be inserted in the first line of the fourth paragraph in between the words *radiation* and *workers*. ***Comment #034-60***

Table 5-1, page 5-5 — With respect to the activity description for waste management, it is inaccurate to state that air emissions are addressed under "water resources." ***Comment #034-61***

Chapter 6, page 6-3, lines 21-23 — The EIS leaves too much unfettered discretion in LES to determine the details of the monitoring program, including in some instances whether any ***Comment #034-62***

monitoring will occur. The EIS should identify minimum requirements, so the decision maker and the public will know what monitoring definitely will occur, in addition to describing the spectrum of additional monitoring options. Throughout Chapter 6, monitoring projects are described, and then it is noted that LES may make changes to the projects after issuance of the NRC license. For example, with respect to bird monitoring, the EIS states, "Following this [three-year] period, program changes could be initiated based on operational experience." Section 6.3.2.2, page 6-22, lines 3-4. Without any explanation of the scope of permissible changes, we do not see why LES could not simply abandon bird monitoring altogether. ***Comment #034-62 (cont.)***

The AGO understands and appreciates the value and efficacy of using adaptive management practices. These practices, when properly implemented, can benefit all stakeholders and lead to win-win outcomes. However, the EIS has no discussion of how these practices would be implemented. For example, if LES wants to change an aspect of its monitoring program, can it do so unilaterally? Would it seek NRC staff concurrence without an opportunity for public notice and input? Or would there be a full permit modification process, with all the attendant due process protections? Without this level of detail, the decision maker and the public are left with no real understanding of the NEF monitoring program and cannot evaluate its effectiveness and sufficiency.

Section 6.1.1.1, page 6-5, lines 29-31 — The EIS assumes that the NEF would have twice the amount of gaseous radioactive effluent as the proposed Claiborne enrichment facility, because the NEF would be twice the size of the proposed Claiborne facility. This assumption, standing alone, is not conservative. The EIS should provide justification for considering this assumption to be conservative. ***Comment #034-63***

Section 6.2.1, page 6-16, line 12 — The word *exhaust* is misspelled. ***Comment #034-64***

Section 6.2.1, page 6-16, lines 21-22 — It would appear unnecessarily risky not to conduct chemical sampling of the septic systems merely because it is assumed no plant-process-related effluents would be introduced into the septic systems. This assumption is particularly confusing in light of the subsequent statement in the EIS, "Physiochemical monitoring would be conducted via sampling of stormwater, soil, sediments, vegetation, and ground water to confirm that *trace, incidental chemical discharges* would be below regulatory limits." Section 6.2.1, page 6-17, lines 1-2 (emphasis added). The only way to verify that incidental plant-process-related effluents have not been introduced inadvertently into the septic systems is to conduct chemical sampling of the systems. For this reason, the AGO believes there should be a requirement of periodic chemical sampling of the septic systems. ***Comment #034-65***

Section 6.2.6, page 6-20, line 2 — The word *participates* should be replaced with the word *participate*. ***Comment #034-66***

Section 6.3.2.3, page 6-22, lines 6-12 — There is very little detail regarding monitoring of mammals as compared to reptiles and amphibians. The EIS should explain why this is so. For example, are reptiles and amphibians better indicators of overall ecological health than mammals, and if so why? ***Comment #034-67***

Comment #034-68

Section 6.3.2.4, page 6-22, lines 24-25 — The EIS notes that, for monitoring of reptiles and amphibians, there will be at least two other replicated sample sites beyond the primary location of the proposed NEF site. The EIS should explain why similar replicated sites are not being used for monitoring other types of ecological resources, such as vegetation, birds and mammals.

Section 6.3.6, page 6-23, lines 28-29 — The EIS should describe the timeframe for completion of tribal consultation. In addition, it is unclear what will be provided when completed. Is it anticipated that a report will be generated as a result of the consultations? If so, the AGO hereby requests that it receive a copy.

Comment #034-69

Thank you for the opportunity to submit these comments. We look forward to continuing to work with the NRC and its staff to ensure that New Mexican's health and the State's environment are fully protected. Please feel free to call me if you have any questions.

Sincerely,

Karen L. Fisher

Karen L. Fisher, Assistant Attorney General
Water, Environment & Utilities Division
Direct phone (505) 827-6695
Facsimile (505) 827-4440
Email kfisher@ago.state.nm.us

Commenter 035

From: "William Mackie" <wmackie@westgov.org>
To: <EXE@nrc.gov>
Date: Thu, Oct 21, 2004 3:25 PM
Subject: EIS for proposed National Enrichment Facility (NUREG-1790)

Earl:

This EIS was not distributed to all Western States (only three). We just got word of it and feel that it is appropriate to reply. Since comments will only be received until November 6, 2004, WGA and some of the other Western states would like to get a sixty day extension to this cutoff date to give us time to review and comment. How do we do this? (I don't know how to get in touch with the Division of Waste Management and Environmental Protection.)

Comment #035-1

Thanks for your help. This is the reason I called this morning. I will be out of the office tomorrow.

Bill

William B. Mackie
Program Manager
Western Governors' Association
1515 Cleveland Place, Suite 200, Denver CO 80202
Phone: 303-623-9378, Ext. 112 -- Fax: 303-534-7309
Web: http://www.westgov.org <http://www.westgov.org/>

CC: <tammy.ottmer@state.co.us>

Commenter 036

From: "CNIC" <CNIC@leaco.net>
To: <nrcrep@nrc.gov>
Date: Thu, Oct 28, 2004 4:45 PM
Subject: NEF DEIS re: Claiborne

Nuclear Regulatory Commission
Chief, Rules and Directives Branch
Division of Administrative Services
US Nuclear Regulatory Commission
Washington, DC 20555-0001

NUREG-1790/Docket 70-3103
Public Comment: Draft Environmental Impact Statement for the Uranium Enrichment Facility Proposed by Louisiana Energy Services for Lea County, NM

To Whom It May Concern:

I am writing to ask that you address the Claiborne Enrichment Facility proposed for Homer, Louisiana in the Louisiana Energy Services (LES) EIS. Although the Claiborne facility is referenced throughout the EIS, the document does not address Homer, LA as a potential site or mention why it was rejected as such. I ask that you include the Claiborne Enrichment Facility in Homer, LA in the final Environmental Impact Statement.

Comment #036-1

Thank you,

Citizens Nuclear Information Center
P.O. Box 312
Hobbs, New Mexico 99240-0312
Web Site: http://www.CNIC.ws
Email: CNIC@leaco.net

Commenter 036

From: "Lee Cheney" <lee_cheney@leaco.net>
To: <nrcrep@nrc.gov>
Date: Thu, Oct 28, 2004 4:48 PM
Subject: NEF DEIS re: Bellefonte

Nuclear Regulatory Commission
Chief, Rules and Directives Branch
Division of Administrative Services
US Nuclear Regulatory Commission
Washington, DC 20555-0001

NUREG-1790/Docket # 70-3103
Public Comment: Draft Environmental Impact Statement for the Uranium Enrichment Facility Proposed by Louisiana Energy Services for Lea County, NM

To Whom It May Concern:

I am writing to submit a public comment regarding NUREG 1790 – the draft EIS statement for the Louisiana Energy Services proposed uranium enrichment facility in Lea County, NM.

The Bellefonte, Alabama site was found inappropriate for the NEF due to the fact that it would have necessitated re-locating high-voltage transmission lines to cross the proposed site. I see no difference in Lea County, New Mexico – this site would also necessitate the relocation of high pressure carbon dioxide pipeline that crosses the site. Why did this not disqualify the Lea County site as it did the Bellefonte site? I request that the EIS address this question in the final draft.

Comment #036-2

Thank you,

Citizens Nuclear Information Center
P.O. Box 312
Hobbs, NM 88240-0312
Web Site http://www.CNIC.ws
Email: CNIC@leaco.net

Commenter 036

From: "Lee Cheney" <lee_cheney@leaco.net>
To: <nrcrep@nrc.gov>
Date: Thu, Oct 28, 2004 4:51 PM
Subject: NEF DEIS re: environmental justice

Nuclear Regulatory Commission
Chief, Rules and Directives Branch
Division of Administrative Services
US Nuclear Regulatory Commission
Washington, DC 20555-0001

NUREG-1790/Docket # 70-3103
Public Comment: Draft Environmental Impact Statement for the Uranium Enrichment Facility Proposed by Louisiana Energy Services for Lea County, NM

To Whom It May Concern:

I am writing to submit a public comment regarding NREG-1790. Since the NEF was considered for multiple sites nationwide, I request that the environmental justice impacts be looked in to more thoroughly in that the EIS evaluate environmental justice issue in geographic comparison with national rates rather than just the State of New Mexico. I would like to be sure that the Lea County site was not chosen for its high-minority and low-income populace. Compared with the national population, Lea County is home to a disproportionate number of low-income persons and minorities and will thus be impacted disproportionately by the NEF. Since LES has a history of environmental justice issues, I request that further discussion of the facility's environmental justice impacts be included in the final EIS statement.

Comment #036-3

Thank you,

Citizens Nuclear Information Center
P.O. Box 312
Hobbs, NM 88240-0312
Web Site: http://www.CNIC.ws
Email: CNIC@leaco.net

Commenter 036

From: "Lee Cheney" <lee_cheney@leaco.net>
To: <nrcrep@nrc.gov>
Date: Thu, Oct 28, 2004 4:55 PM
Subject: NEF DEIS re: employment

Nuclear Regulatory Commission
Chief, Rules and Directives Branch
Division of Administrative Services
US Nuclear Regulatory Commission
Washington, DC 20555-0001

NUREG-1790/Docket #70-3103
Public Comment: Draft Environmental Impact Statement for the Uranium Enrichment Facility Proposed by Louisiana Energy Services for Lea County, NM

To Whom It May Concern:

I am submitting my public comments for review regarding NUREG-1790. I am concerned with sections 4.2.8.2 and 4.2.8.3 relating to Employment and Economic Activity. The EIS states that the NEF would have a moderate impact on the socioeconomics in Lea, Andrews, and Gaines Counties. However, 60% of the workforce is expected to come from outside this area of influence, which will, therefore, influence the 1% figure stated by the EIS.

Comment #036-04

The EIS also states that educational programs with local colleges would develop a pool of qualified workers, but I am not aware of any partnership or talks between LES and the local colleges. I also doubt that our local colleges have the ability to train people in sensitive nuclear materials handling and uranium enrichment processes.

Comment #036-05

I request that the final EIS go into further detail regarding the employment generated by the NEF and workforce training.

Thank you for your consideration.

Sincerely,

Citizens Nuclear Information Center
P.O. Box 312
Hobbs, NM 88240-0312
Web Site: http://www.CNIC.ws
Email: CNIC@leaco.net

Commenter 036

From: "Lee Cheney" <lee_cheney@leaco.net>
To: <nrcrep@nrc.gov>
Date: Thu, Oct 28, 2004 4:58 PM
Subject: NEF DEIS re: waste disposal

Nuclear Regulatory Commission
Chief, Rules and Directives Branch
Division of Administrative Services
US Nuclear Regulatory Commission
Washington, DC 20555-0001

NUREG-1790/Docket #70-3103
Public Comment: Draft Environmental Impact Statement for the Uranium Enrichment Facility Proposed by Louisiana Energy Services for Lea County, NM

To Whom It May Concern:

I am writing to submit my public comments for consideration regarding NUREG-1790. I am particularly concerned with the fact that the draft EIS statement mentions the possibility of locating a depleted uranium hexafluoride conversion facility near the NEF. The option is unfeasible. The State of New Mexico requires that the waste be moved out of the state and not just off-site. This is not a feasible conversion option and should not be considered. I request that the EIS cease to mention moving the waste off-site as a viable possibility.

Comment #036-6

Thank you.

Citizens Nuclear Information Center
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> Sincerely,
>

Commenter 036

From: "Lee Cheney" <lee_cheney@leaco.net>
To: <nrcrep@nrc.gov>
Date: Thu, Oct 28, 2004 5:01 PM
Subject: NEF DEIS re: Envirocare/US Ecology

Nuclear Regulatory Commission
Chief, Rules and Directives Branch
Division of Administrative Services
US Nuclear Regulatory Commission
Washington, DC 20555-0001

NUREG-1790/Docket #70-3103
Public Comment: Draft Environmental Impact Statement for the Uranium Enrichment Facility Proposed by Louisiana Energy Services for Lea County, NM

To Whom It May Concern:

I am submitting my comments for consideration regarding the EIS for the proposed NEF facility to be built in Lea County, New Mexico. The EIS states that Envirocare in the state of Utah and U.S. Ecology in the state of Washington are two potential sites to ship the triuranium octaoxide, a byproduct of the uranium enrichment process. The EIS does not indicate that negotiations between LES and Envirocare or U.S. Ecology are underway or being sought. Clearly, without the consent and cooperation of one of the two facilities, no viable waste disposal option currently exists. The State of New Mexico and the citizens of Lea County have repeatedly requested that the NRC license not be granted until viable waste solution options are presented. I ask that the final EIS statement look into the question of waste disposal further to ensure there are viable options.

Comment #036-7

Thank you.

Sincerely,

Citizens Nuclear Information Center
P.O. Box 312
Hobbs, NM 88240-0312
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Commenter 036

From: "Lee Cheney" <lee_cheney@leaco.net>
To: <nrcrep@nrc.gov>
Date: Thu, Oct 28, 2004 5:05 PM
Subject: NEF DEIS re: Western Interstate Energy Board

Nuclear Regulatory Commission
Chief, Rules and Directives Branch
Division of Administrative Services
US Nuclear Regulatory Commission
Washington, DC 20555-0001

NUREG-1790/Docket #3103
Public Comment: Draft Environmental Impact Statement for the Uranium Enrichment Facility Proposed by Louisiana Energy Services for Lea County, NM

To Whom It May Concern:

I am submitting my comments for review regarding the NEF proposed for Lea County, New Mexico (NUREG-1790). I ask that that Louisiana Energy Services and the Nuclear Regulatory Commission consult the Western Interstate Energy Board as recommended in the EIS scoping period. Why was the Board not consulted? The Western Interstate Energy Board is valuable in that it is integral in the communication and cooperation among its membership regarding the development/management of nuclear energy products. The proposed LES facility certainly falls within its scope and therefore should consult the Board. Please include this in the final EIS for the proposed Louisiana Energy Services NEF.

Comment #036-8

Thank you for your consideration.

Sincerely,

Citizens Nuclear Information Center
P.O. Box 312
Hobbs, NM 88240-0312
Web Site: http://www.CNIC.ws
Email: CNIC@leaco.net

Commenter 036

From: "CNIC" <CNIC@leaco.net>
To: <nrcrep@nrc.gov>
Date: Thu, Oct 28, 2004 5:08 PM
Subject: NEF DEIS re: safeguards

Nuclear Regulatory Commission
Chief, Rules and Directives Branch
Division of Administrative Services
US Nuclear Regulatory Commission
Washington, DC 20555-0001

NUREG-1790/Docket #70-3103
Public Comment: Draft Environmental Impact Statement for the Uranium Enrichment Facility Proposed by Louisiana Energy Services for Lea County, NM

To Whom It May Concern:

These are my public comments for submission to the Nuclear Regulatory Commission regarding its Draft Environmental Impact Statement for the proposed Louisiana Energy Services NEF.

I am concerned with effluent monitoring, including both air and water. The DEIS states that corrective actions will be instituted when an action level is exceeded for any of the parameters but it does not include the regulatory agency that will be in charge of the monitoring. It seems that currently there is no mechanism in place for an operating license to be revoked pursuant to unacceptable levels. Are there safeguards in place? I request that the final EIS addresses safety measures to protect the citizens of Lea County from hazardous materials exceeding federal or state standards. Additionally, I request that the final EIS identify the responsible party for long-term stewardship of the proposed NEF site.

Comment #036-9

Comment #036-10

Thank you for your time.

Sincerely,

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Hobbs, NM 88240-0312
Web Site: http://www.CNIC.ws
Email: CNIC@leaco.net

Commenter 036

From: "CNIC" <CNIC@leaco.net>
To: <nrcrep@nrc.gov>
Date: Thu, Oct 28, 2004 5:11 PM
Subject: NEF DEIS re: summary report

Nuclear Regulatory Commission
Chief, Rules and Directives Branch
Division of Administrative Services
US Nuclear Regulatory Commission
Washington, DC 20555-0001

NUREG-1790/Docket #70-3103
Public Comment: Draft Environmental Impact Statement for the Uranium Enrichment Facility Proposed by Louisiana Energy Services for Lea County, NM

To Whom It May Concern:

The draft environmental impact statement for the proposed NEF facility in Lea County, New Mexico states that the proposed NEF would submit an annual report of the Environmental Sampling Program to the Nuclear Regulatory Commission. Would this information be made public to the citizens of Lea County and the State of New Mexico? How? It is essential that the public be allowed to participate in the environmental oversight of the proposed NEF facility. I request that the final EIS statement address these questions.

Comment #036-11

Thanks,

Citizens Nuclear Information Center
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Commenter 036

From: "Lee Cheney" <lee_cheney@leaco.net>
To: <nrcrep@nrc.gov>
Date: Fri, Nov 5, 2004 2:25 PM
Subject: LES DEIS - Plutonium Detection Equipment

Nuclear Regulatory Commission
Chief, Rules and Directives Branch
Division of Administrative Services
US Nuclear Regulatory Commission
Washington, DC 20555-0001

NUREG-1790/Docket #70-3103
Public Comment: Draft Environmental Impact Statement for the Uranium Enrichment Facility Proposed by Louisiana Energy Services for Lea County, NM

To Whom It May Concern:

The draft environmental impact statement for the proposed NEF facility in Lea County, New Mexico fails to require LES to install plutonium detection equipment. Because of the possibility that LES could receive UF6 that is contaminated with plutonium similar to the way the Paducah, KY facility received plutonium contaminated UF6, we hereby request that the NRC require LES to install adequate plutonium detection equipment before the NRC grants LES an operating permit.

Comment #036-12

Thank you.

Citizens Nuclear Information Center
P.O. Box 312
Hobbs, NM 88240-0312
Web Site: http://www.CNIC.ws
Email: CNIC@leaco.net

Commenter 037

From: "Michael Mariotte" <nirsnet@nirs.org>
To: <nrcrep@nrc.gov>
Date: Thu, Oct 28, 2004 5:24 PM
Subject: NIRS/Public Citizen request for extension of comment period on NUREG-1790

Also attached as .doc file

Nuclear Information and Resource Service
Public Citizen's Critical Mass Energy and Environment Program

October 28, 2004

Anna Bradford
TWFN 7J-8
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
nrcrep@nrc.gov

Dear Ms. Bradford

Nuclear Information and Resource Service (NIRS) and Public Citizen's Critical Mass Energy and Environment Program respectfully request <<DEIScommentextension102804.doc>> an extension of the public comment period on the Draft Environmental Impact Statement (DEIS) for the proposed Louisiana Energy Service uranium enrichment facility (NUREG-1790), which currently is set to expire on November 6, 2004.

As you know, the NRC has closed its ADAMS document system to the public for an indefinite period. Thus, it is virtually impossible for anyone who has not already obtained a copy of NUREG-1790 to comment on this document. Moreover, supporting documents that may be relevant to NUREG-1790 are not available either. Ending the public comment period during a time when the relevant documents are not available to the public would make a mockery of the entire concept of public participation.

J-127

Thus, we request that the NRC extend the public comment period on NUREG-1790 until 30 days following publication of a notice in the Federal Register that NUREG-1790 and all other documents related to the Louisiana Energy Services license application (Docket No. 70-3103-ML) are again available for public access.

Comment #037-1

Sincerely,

Michael Mariotte
Executive Director
NIRS
202-328-0002
nirsnet@nirs.org

Wenonah Hauter
Executive Director
CMEEP
202-546-4996
whauter@citizen.org

Nuclear Information and Resource Service Public Citizen's Critical Mass Energy and Environment Program

October 28, 2004

Anna Bradford
TWFN 7J-8
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
nrcrep@nrc.gov

Dear Ms. Bradford

Nuclear Information and Resource Service (NIRS) and Public Citizen's Critical Mass Energy and Environment Program respectfully request an extension of the public comment period on the Draft Environmental Impact Statement (DEIS) for the proposed Louisiana Energy Service uranium enrichment facility (NUREG-1790), which currently is set to expire on November 6, 2004.

As you know, the NRC has closed its ADAMS document system to the public for an indefinite period. Thus, it is virtually impossible for anyone who has not already obtained a copy of NUREG-1790 to comment on this document. Moreover, supporting documents that may be relevant to NUREG-1790 are not available either. Ending the public comment period during a time when the relevant documents are not available to the public would make a mockery of the entire concept of public participation.

Thus, we request that the NRC extend the public comment period on NUREG-1790 until 30 days following publication of a notice in the Federal Register that NUREG-1790 and all other documents related to the Louisiana Energy Services license application (Docket No. 70-3103-ML) are again available for public access.

Sincerely,

Michael Mariotte
Executive Director
NIRS
202-328-0002
nirsnet@nirs.org

Wenonah Hauter
Executive Director
CMEEP
202-546-4996
whauter@citizen.org

Commenter 037

From: "Joseph Malherek" <jmalherek@citizen.org>
To: <nrcrep@nrc.gov>
Date: Tue, Dec 7, 2004 1:06 PM
Subject: Request to Extend Deadline for DEIS Comments

Dear Ms. Bradford:

Attached you will find a letter (in PDF format) from the Nuclear Information and Resource Service and Public Citizen requesting an extension of the public comment period on the Draft Environmental Impact Statement for the proposed National Enrichment Facility (NUREG-1790).

Due to the inaccessibility of essential documents pertaining to and including the NEF application and the DEIS -- which are necessary to drafting meaningful public comments -- we feel that it is inappropriate for the NRC to maintain the current deadline of December 18.

Regards,
Joe Malherek

Joseph P. Malherek

Policy Analyst
Critical Mass Energy and Environment Program
PUBLIC CITIZEN
215 Pennsylvania Ave SE
Washington, DC 20003
Phone: 202-454-5109
Fax: 202-547-7392
E-mail: jmalherek@citizen.org

J-128

NUCLEAR INFORMATION AND RESOURCE SERVICE · PUBLIC CITIZEN

December 7, 2004

Anna Bradford
Two White Flint North, 7J-8
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
nrcrep@nrc.gov

Re: Renewed Request to Extend Public Comment Period on the Draft Environmental Impact Statement for the proposed National Enrichment Facility (NUREG-1790)

Dear Ms. Bradford:

The Nuclear Information and Resource Service (NIRS) and Public Citizen respectfully reiterate our request for an extension of the public comment period on the Draft Environmental Impact Statement (DEIS) for the proposed National Enrichment Facility (NEF) (NUREG-1790), which currently is set to expire on December 18, 2004 (69 FR 64983).

As you know, the NRC has closed its Agencywide Documents Access and Management System (ADAMS) to the public for an indefinite period for a security review. Thus, it is virtually impossible for anyone who has not already obtained a copy of NUREG-1790 to comment on this document. Moreover, supporting documents that may be relevant to NUREG-1790 are not available either. Ending the public comment period during a time when the relevant documents are not available to the public would make a mockery of the entire concept of public participation.

In addition, online access to the license application for the NEF and the similar American Centrifuge Plant has been blocked. According to Matthew Blevins of the NRC, this is due to the NRC's ongoing security review, although access to these documents had been maintained between October 25, when access to ADAMS was initially restricted, and November 30. The NRC cannot hold to the deadline of December 18 when the documents most essential to drafting comments are not conveniently available to the general public.

Comment #037-2

Thus, we reiterate our request that the NRC extend the public comment period on NUREG-1790 until 30 days following publication of a notice in the *Federal Register* that NUREG-1790 and all other documents related to and including the LES application (Docket No. 70-3103-ML) are again available for public access.

Sincerely,

Michael Mariotte
Executive Director
Nuclear Information and Resource Service
202-328-0002
nirsnet@nirs.org

Wenonah Hauter
Director
Public Citizen's Critical Mass Energy and Environment Program
202-546-4996
whauter@citizen.org

Commenter 038

From: <JAWard@state.nm.us>
To: <nrcrep@nrc.gov>
Date: Mon, Nov 1, 2004 4:19 PM
Subject: NUREG-1790

Attached are comments from the NM Dept of Game and Fish regarding the EIS for the proposed National Enrichment Facility in Lea County, New Mexico. A hard copy of the response, with attachments, is in route.
<<9598 NUREG -1790.doc>>

Janell Ward
CSD, Assistant Chief
PO Box 25112
Santa Fe, NM 87504
Phone: (505) 476-8114
Fax: (505) 476-8128

J-129

STATE OF NEW MEXICO
DEPARTMENT OF GAME & FISH

One Wildlife Way
PO Box 25112
Santa Fe, NM 87504

Visit our website at www.wildlife.state.nm.us
For basic information or to order free publications: 1-800-862-9310.

November 1, 2004

Chief, Rules Review and Directives Branch
U.S. Nuclear Regulatory Commission
Mail Stop T6-D59
Washington DC 20555-0001

Re: NUREG-1790 (Draft)
NMGF Project No. 9598

Dear Nuclear Regulatory Commission:

The New Mexico Department of Game and Fish (NMGF) has reviewed the above referenced report, titled Environmental Impact Statement for the Proposed National Enrichment Facility in Lea County, New Mexico (DEIS). The function of the proposed facility is gas centrifuge enrichment of uranium hexafluoride, for the purpose of manufacturing nuclear fuel for commercial reactors. Project location is approximately 5 miles east of Eunice and 20 miles south of Hobbs, NM. Facility construction would take place on 200 acres of the total 543-acre site.

The project proponents have committed to a number of mitigation practices in order to minimize adverse ecological impact. NMGF commends Louisiana Energy Services (LES) for their intention to revegetate with native, low-water-use, plant species, follow best management practices for wildlife protection in trenching operations, fence and net stormwater and effluent ponds, and conduct an extensive monitoring program. Regarding the trenching practices, we would like to emphasize that the same precautions should be followed when constructing the 25 miles of new water supply pipe, as well as the 1.5 miles of relocated carbon dioxide line. We enclose a copy of our guidelines for power lines that minimize harm to perching birds, and recommend the guidelines be followed in construction of the 8 miles new overhead power supply line. An additional recommended mitigation would be down-shielding of security lights, to minimize interference with avian navigation.

Comment #038-1

Comment #038-2

During the scoping process, NMGF expressed concern about the sufficiency of LES's survey efforts for two species of concern, the sand dune lizard (*Sceloporus arenicolus*) and lesser prairie chicken (*Tympanuchus pallidicintus*). We are now satisfied that surveys have been adequate to document absence of both species from the site, and support the conclusion of no significant adverse impact. However our biologists recommend the following technical corrections to the species accounts in the DEIS:

Comment #038-10

Page 3-47 line 43: "nearest known breeding area" should be changed to read "nearest known lek site". Breeding area infers display grounds, nesting, and brood-rearing habitat. Approximately 25,000 acres of contiguous, suitable habitat is needed to support viable lesser prairie-chicken populations. Habitat used for nesting and brooding-rearing are usually within 2 mi of booming grounds. The combined home range of all birds at a lek is ~19 mi2 (>12,000 ac). However, the average home range of an individual bird is ~4 mi2. Based on these estimates, disturbance from the proposed facility may impact habitat components necessary to fulfill lesser prairie-chicken life history needs including nesting habitat, brood-rearing and summer habitat, and autumn and winter habitat.

Comment #038-3

Line 49: The assertion that water distribution can be a limiting factor for the lesser prairie-chicken in SE NM is false. Lesser prairie-chickens will use free water from stock ponds when available, however, they typically obtain the necessary moisture through food since the original distribution of lesser prairie-chicken were not limited to rangelands having free water.

Comment #038-4

Page 3-48, line 11, change the word "or" to "and"; page 3-48, line 14, change the word "insects" to "invertebrates".

Comment #038-5

Comment #038-6

J-130

The fenced and lighted 200 acres of constructed facilities will constitute total loss of habitat for medium to large size mammals and some birds. We are assuming that the perimeter fence around the entire 543-acre site will be chain-link security fence designed to keep out human intruders. This fence may eliminate connectivity with critical habitat components for animals trapped inside. While the assertion in the DEIS is correct that mobile wildlife will move to adjacent areas of similar habitat when displaced, the ultimate effect of habitat loss is reduced carrying capacity and wildlife population levels. This is especially important when considering the cumulative effects of industrial development in the project area. Species such as the kit fox (*Vulpes velox*), which have low population density (large home range requirements), are relatively more susceptible to population-level effects of cumulative habitat loss, not less susceptible as implied on page 3-49 of the DEIS.

Comment #038-7

In addition to netting the stormwater and effluent ponds to protect birds and bats from potential contact with oily or toxic substances, the DEIS makes numerous references to "animal-friendly fencing". Since large mammals will presumably not be present within the developed portion of the plant, fencing should focus on limiting access of reptiles, amphibians, and small mammals. The fence material should have limited permeability, such as silt fence or fine gauge welded or woven wire mesh, and the bottom edge should be turned outward 90 degrees and buried below the ground surface to discourage burrowing under. Neither the netting nor fencing should be constructed of nylon monofilament, which has been documented to entangle birds and reptiles, causing injury or death.

Comment #038-8

Finally, we urge the NRC to carefully consider the need for this project, given the possible alternatives of domestic energy-efficient enriched uranium production at the proposed USEC gas centrifuge plant, and extension of the MOX and down-blending programs. There is a certain amount of risk inherent in introducing to the environment, processing and transporting, large quantities of radioactive and chemically toxic material.

Comment #038-9

Thank you for the opportunity to comment on this project. If there are any questions, please contact Rachel Jankowitz at (505) 476-8159 or rjankowitz@state.nm.us.

Sincerely,

Lisa Kirkpatrick, Chief
Conservation Services Division

LK/rjj

cc: Susan MacMullin, Ecological Services Field Supervisor, USFWS
Roy Hayes, SE Area Operations Chief, NMGF
Rachel Jankowitz , Habitat Specialist, NMGF

NEW MEXICO DEPARTMENT OF GAME AND FISH

Power line Project Guidelines
September 2003

1) TRANSMISSION LINE STRUCTURAL DESIGN All eagles, hawks, owls and vultures are protected under New Mexico state law (New Mexico Statutes Annotated, 1978, 17-2-14, as amended). Bald and golden eagles are also protected under federal law. Transmission lines **should be designed to prevent or minimize risk of electrocution of raptors.** A variety of alternatives were set forth in Olendorff et al. 1981 in *Suggested Practice for Raptor Protection on Power Lines: The State of the Art in 1981* (Raptor Research Report No.4, Raptor Research Foundation, Inc., St. Paul, Minnesota, 111 pages). This report was updated by the Avian Power Line Interaction Committee in 1996 as *Suggested Practices for Raptor Protection on Power Lines: The State of the Art in 1996* (Edison Electric Institute/Raptor Research Foundation, Washington, D.C.). A Copy of this report may be requested by calling the Raptor Research Foundation at (612) 437-4359.

2) LOCATION Existing roads, trails, and rights-of-way should be followed where possible. Roads and rights-of-way should avoid critical wildlife habitat, saddles, ridge tops, riparian, meadows, edges of meadows, and big game migration routes. Construction using helicopters should be considered in remote critical wildlife areas where construction of new roads would otherwise be necessary.

3) CLEARING Rights-of–way clearing should be selective, leaving shrubs and brush undisturbed where possible. Clearing should be avoided in riparian areas and on steep slopes. Brush and limbs should be piled at intervals to enhance wildlife habitat.

4) STRUCTURES Bridges and culverts should be designed so that fish passage is not impeded. Water hydrology and stream courses should remain unchanged. Special techniques and structures should be employed as necessary to minimize erosion and sedimentation to riparian areas (e.g., catch basins, raised culverts for roads runoff, water bars).

5) CLOSURES Roads and rights-of-way that provide access to critical wildlife areas should be designed for easy and effective closure. Gates should be installed at the onset of construction and closed immediately after completion of the project. Temporary roads should be obliterated and revegetated immediately after construction.

6) SCHEDULING Winter construction is preferred on critical big game summer range. Summer construction is preferred on big game winter range. No construction should be conducted in winter range from December 15-April 15. No construction should occur in elk calving areas from May 1-June 30. No construction should occur in deer fawning areas from June 1-August 31 (northern New Mexico) or July 1-September 31 (southern New Mexico). No construction should occur in turkey nesting areas from April 15-June 30. Construction in big game migration areas should be restricted during migration.

7) SPECIAL CONSIDERATION FEATURES (Areas such as seeps, springs, wet meadows, marshes, wallows, salt licks and water development areas). Protect these features from damage during construction. No roads within 200 feet of feature. Remove debris from wildlife trails. Protect rock talus areas from disturbance by heavy equipment.

8) RIPARIAN AREAS AND FISHERIES Develop site-specific measures where appropriate. Maintain at least 100-foot buffer along streams. Debris left in streams and drainages may be detrimental or beneficial and should be assessed on a site-specific basis. Prevent siltation to streams. Fine sediment (less than 0.85 mm diameter) should remain at < 20% of spawning gravel in trout streams. In streams: maintain $\geq$ 80% natural shade over water; maintain $\geq$ 80% natural bank protection; composition of sand, silt, and clay should remain within 20% of natural levels.

9) FENCES Provide jumps or top rails on fences, or lay-down fences, within areas of high wildlife use (e.g., travel corridors). Bottom wire should be barbless and at least 16” above ground in antelope or deer habitat. Maximum fence height should be 42”. Minimum spacing between top two wires should be 10”. Do not use woven wire fencing.

10) REVEGETATION AND RESTORATION A reclamation plan is recommended for all short-term or long-term temporary surface disturbances. Stockpile topsoil at the time of original construction. When the disturbed area is no longer needed, re-contour the site to blend visually with surroundings, and return the drainage pattern as close as feasible to pre-existing conditions. For best results, topsoil should be spread to a minimum depth of 20 inches. Where no topsoil is available, or topsoil has been stored over one or more winters, amend with organic matter and fertilizer. Create furrows perpendicular to slope, if on a hillside. Seed with an appropriate certified weed-free mix of native grasses, forbs and shrubs beneficial to wildlife. In some cases seeding or transplant of woody species may be desirable.
Incremental revegetation is preferred in areas where work is conducted during spring and summer. Sections of right-of-way should be rehabilitated as construction is completed. Follow up by monitoring to assure no development of erosion problems and successful establishment of vegetation. Revegetated areas, which have not become established by the end of the growing season, should be treated to prevent erosion and site degradation (e.g., mulching, contouring, water bars).

SPECIES-SPECIFIC RECOMMENDATIONS

1) THREATENED AND ENDAGERED SPECIES Determine which state and/or federally listed species could occur in the project area. Sources of information include:

New Mexico Department of Game and Fish
PO Box 25112
Santa Fe, New Mexico 87504
(505) 476-8101 [State-listed wildlife]

New Mexico Department of Energy, Minerals and Natural Resources
Forestry Division
1220 St. Francis Dr.
Santa Fe, New Mexico 87505
(505) 476-3200 [State-listed plants]

U.S. Fish and Wildlife Service
New Mexico Ecological Services State Office
2105 Osuna, NE
Albuquerque, New Mexico 87113
(505) 346-2525 [Federally-listed plants and animals]

Contact the above agencies for assistance in determining presence or absence of threatened and endangered species and critical habitats. Work with these agencies to develop protective strategies.

2) DEER AND ELK Protect browse and forage plants.

3) TURKEY Identify and protect roost tree groups (winter roost trees are most critical). Roost tree groups can be described as:

- Large open topped trees (≥ 13" dbh, > 40' tall, especially ponderosa pine)
- Canopy cover > 55%;
- Basal area > 100 ft²/ac.
- Accessible from clearing directly up slope, not isolated from stand.
- Provide nesting habitat in ponderosa pine or mixed conifer where practical by creating slash piles (10' diameter x 3' high) or leaving unlopped treetops. Nesting habitat should be within ½ mile of dependable water.

4) RAPTORS Protect known nest tree groups. Protect perch and roost trees adjacent to cliffs, major ridges and openings.

5) BEAR Protect mast (oak & juniper) and forage plants. Leave large diameter dead or down trees for insect forage.

6) TREE SQUIRRELS Protect stands with high squirrel activity (e.g., nest trees, large middens). Protect trees with existing cavities.

7) NON-GAME BIRDS When abandoning or realigning old electric lines, leave 10% to 30% of the abandoned poles standing for perching and cavity nesting birds, especially in areas lacking natural snags. Numbers and location of poles to be left standing should be coordinated with the U.S Fish and Wildlife Service and New Mexico Department of Game and Fish. The taller the poles the better, but under existing lines, leaving four to ten feet of the old pole standing will provide useful habitat. If poles are still sound, artificial nesting cavities can be created. Heavily creosoted, potentially toxic poles should be cut at ground level and removed.

Commenter 039

United States Department of the Interior

IN REPLY REFER TO

Bureau of Land Management
Carlsbad Field Office
620 E. Greene Street
Carlsbad, NM 88220
www.nm.blm.gov

Chief, Rules Review and Directives Branch
U.S. Nuclear Regulatory Commission
Mail Stop T6-D59
Washington, DC 20555-0001

Dear Sir:

The Bureau of Land Management (BLM), Carlsbad Field Office appreciates the opportunity to provide the following comment regarding the Draft Report for Comment on the Environmental Impact Statement for the Proposed National Enrichment Facility in Lea County, New Mexico.

BLM Staff have concerns regarding the discussion of the seismic potential (section 3). A study by Hills in 1996 differs in its conclusions regarding tectonic earthquake potential in the area of the proposed National Enrichment Facility. BLM staff suggest that analysis of the potential for earthquakes be discussed in the environmental analysis (section 4) and opportunities for mitigation of potential earthquake activity be addressed.

Comment #039-1

Again, thank you for the opportunity to comment and if you have questions or desire clarification regarding this information please contact Peg Sorensen of our office at (505) 234-5983. Please allow the BLM to continue being involved in this process.

Sincerely,

Joe Lara
Field Manager

J-133

Commenter 040

From: <Stephen_Spencer@ios.doi.gov>
To: <nrcrep@nrc.gov>
Date: Fri, Nov 5, 2004 2:55 PM
Subject: U.S. Department of the Interior Comments, Draft EIS for the ProposedNational Enrichment Facility in Lea County, NM [Virus checked]

Please find attached the U.S. Department of the Interior comments on the proposed project. Please confirm receipt of this comment letter by replying to this e-mail. Please feel free to contact me if there is a need for further information.

(See attached file: ER04685 UraniumEnrichment.pdf)

Stephen R. Spencer, Ph.D.
Regional Environmental Officer
U.S. Department of the Interior
Office of Environmental Policy and Compliance
Mailing Address:
P.O. Box 26567 (MC-9)
Albuquerque, New Mexico 87125-6567
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Phone: (505) 563-3572 Fax: (505) 563-3066 Cell: (505) 249-2462
E-mail: Stephen_Spencer@ios.doi.gov

United States Department of the Interior

OFFICE OF THE SECRETARY
Office of Environmental Policy and Compliance
P.O. Box 26567 (MC-9)
Albuquerque, New Mexico 87125-6567

TAKE PRIDE IN AMERICA

November 5, 2004

9043.1
ER 04/685

Chief, Rules Review and Directives Branch
U. S. Nuclear Regulatory Commission
Mail Stop T6-D59
Washington, DC 20555-0001

Dear Sir/Madam:

The U.S. Department of the Interior has reviewed the Draft Environmental Impact Statement (DEIS) for the Proposed National Enrichment Facility (NEF) to Produce Enriched Uranium, Lea County, New Mexico (Document No. NUREG-1790). In this regard, we offer the following comments.

J-134

The primary function of the NEF is to enrich natural uranium hexafluoride by separating a feed stream containing the naturally occurring proportions of uranium isotopes into a product stream enriched in ^{235}U and a tails stream depleted in the ^{235}U isotope. The enrichment process is a mechanical separation of isotopes using a fast rotating cylinder (centrifuge) based on a difference in centrifugal forces due to molecular weight of the uranium isotopes. To perform this process, the NEF would incorporate a number of structures on a 543-acre site, including buildings, cooling towers, storage areas, fences, and a road network. The NEF also will include one liquid effluent treatment basin and two stormwater treatment basins.

The DEIS identifies that there are no surface water features on the existing site. However, the proposed action would create three artificial water features and the management of these water bodies should be further addressed to reduce potential effects to human health and the environment. The NEF will discharge 7.6 million gallons of wastewater into two of these basins per year (DEIS, page 4-11). Approximately 0.6 million gallons will be disposed into the lined and netted Liquid Effluent Treatment Basin. Approximately 5.1 million gallons of wastewater, mainly cooling tower blow down, will be disposed into the lined Uranium Byproduct Cylinder (UBC) Storage Pad stormwater basin. An additional 46 million gallons of stormwater will be discharged to both stormwater basins, with 163 million gallons of site runoff (DEIS, page 4-12) expected to percolate downward and form a perched layer below the NEF. The UBC stormwater basin would be expected to contain trace amounts of oil and grease, any chemicals associated with the cooling tower process (e.g., salts, corrosion inhibitors, metals, disinfectants, de-scaling compounds), and any pollutants that are either wet- or dry-deposited from the atmosphere.

We are concerned that ponded wastewater may attract wildlife and pose a risk to their health and the environment. Even if waters are temporary, constructed wetlands, ponds, and lagoons can nonetheless attract amphibians, insects, crustaceans, algae, and migratory birds. The UBC stormwater basin has the potential to contain wastewater with salts and brine, trace elements, nutrients, heavy metals, organic chemicals, petroleum, solvents, pesticides, or pathogenic microorganisms that may pose a health risk to migratory birds and other wildlife. Migratory birds often do not distinguish between these wastewater lagoons and natural water bodies and can be attracted to these open lagoons to drink, rest, and perhaps feed on any algae and invertebrates found there. Migratory birds are protected under the Migratory Bird Treaty Act and it is unlawful to create conditions that kill migratory birds.

Comment #040-1

Depending on the duration and season of filling, these basins may also become thermally stratified. Under the right conditions (e.g., with excess biochemical or chemical oxygen demand) these ponds can become stagnant. Stagnant water can foster conditions where mosquitoes thrive and breed, providing the potential for exposure to West Nile Virus and other arboviruses that may be lethal to migratory birds, as well as people. Potential mitigating actions to reduce these conditions, can include, but are not limited to:

Comment #040-2

1. Stormwater and wastewater management (e.g., treatment, recycling or reuse);
2. Stormwater basin design that discourages wildlife visitation (i.e., more rectangular and narrow shapes rather than oval, playa-like shapes);
3. Wildlife exclusion technologies (e.g., netting, amphibian and reptile barriers);
4. Mosquito management programs (e.g., integrated pest management, predators); and
5. Engineering solutions to keep water moving (e.g., aerators or aerating fountains).

The NEF also includes two 115-kilowatt overhead transmission lines and 8 miles of power support structures and lines along Highway 234. Birds of prey such as eagles, hawks, and owls frequently use power lines and support structures for perching and nesting. These raptors can be electrocuted while using power lines, thus contributing to the cumulative mortality factors affecting these biologically important and environmentally sensitive birds. Standard techniques have been developed to prevent raptor electrocutions at electric distribution lines. This latest guidance is included in the publication, "Suggested Practices for Raptor Protection on Power Lines: The State of the Art in 1996," by the Avian Power Line Interaction Committee. The document may be requested from Edison Electric Institute, P. O. Box 266, Waldorf, Maryland, 20604-0266, Telephone 800-334-5453; from the Raptor Research Foundation at 12805 St. Croix Trail, Hastings, Minnesota 55033, Telephone 612-437-4359; or by e-mail to jmfitzptrk@aol.com. New or modified electric distribution lines should be designed and constructed to prevent the electrocution of raptors by using the above-referenced guidance. Proper design should include adequate separation of energized hardware or insulation of wires where sufficient separation cannot be attained. Closely spaced transformer jumper wires, bushing covers, protective cutouts, or surge arresters can be made safe for raptors by the use of special insulating material. The use of grounded steel cross arm braces should be avoided. These measures should be implemented on each line and pole associated with your new or converted lines, as necessary.

Comment #040-3

Specific Comments:

The proposed project area is close in proximity to a number of National Park Service units including Carlsbad Caverns National Park in New Mexico and Guadalupe Mountains National Park in Texas, both of which are Class I air quality areas, as well as White Sands National Monument in New Mexico, which is a Class II area. Given the proximity to these parks, we encourage you to consider the following specific comments.

Page 2-11 - We commend the Nuclear Regulatory Commission (NRC) for including the impacts that construction emissions will have on air quality. We would like to point out that construction emissions will be more than dust as mentioned on Page 2-11. Emissions will vary depending on the type of construction equipment that is utilized, the controls that are instituted on the equipment and the fuel types used, as well as the length of time that construction activities occur. We would like to see these impacts accounted for in the EIS. ***Comment #040-4***

Page 4-66 - Examining cumulative impacts is an important facet to determine how the impacts from the facility, when combined with other operations in the same area, will contribute to the overall air quality of the region. The NRC has made an effort to examine cumulative emissions; however, it seems as if the NRC solely examined the combined impact of the various operations involved in its own facility. For a complete cumulative impact analysis, these emissions would need to be looked at in conjunction with emissions that are being emitted from other nearby facilities. ***Comment #040-5***

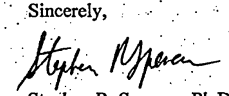
Page 5-4, 5.1 Mitigation Measure Proposed by LES (Louisiana Energy Services), Table 5-1 Summary of Potential Mitigation Measures Proposed by LES for Construction and Table 5-2 Summary of Potential Measure Proposed by LES for Operations, Ecological Resources - Both tables identify mitigation measures to enhance habitats "defined as rare or unique or that support threatened or endangered species." Although use of native plants is proposed for disturbed land restoration, no mention is made of potential incidental encroachment of non-native vegetation. We suggest that weed monitoring and control be considered in keeping with native habitat enhancement. ***Comment #040-6***

In summary, we suggest the final EIS and/or mitigation plan should address:

1. the potential water quality conditions in the wastewater treatment basins;
2. provisions for a mosquito management program;
3. reduction of any nuisance conditions posed to migratory birds and other wildlife;
4. prevention of the electrocution of raptors;
5. incorporation of weed monitoring;
6. emissions during construction activities; and
7. emissions in the cumulative impact analysis.

Thank you for the opportunity to review and comment on this Draft EIS.

Sincerely,



Stephen R. Spencer, Ph.D.
Regional Environmental Officer

Commenter 041

From: "Barnes, Melanie" <MELANIE.BARNES@ttu.edu>
To: <nrcrep@nrc.gov>
Date: Mon, Nov 8, 2004 7:13 AM
Subject: comments on Docket No. 70-3103

Dear Ms. Anna Bradford,

Thank you for the copy of the Environmental Impact Statement (EIS) for the Proposed National Enrichment Facility in Lea County, New Mexico. I was disappointed that it took so long to arrive. I received it on the 4th of November, the day before leaving for the annual meeting of the Geological Society of America in Denver, Colorado. I truly hope that I am correct in understanding that my comments will be addressed as long as they are sent by e-mail by the 6th of November 2004. It is now 9:30pm Mountain time on the 6th of November 2004 and the first chance I have had to send this e-mail after participating in a public policy meeting all day. Also I was disappointed in the public hearing and the lack of opportunity to address the group in person. The meeting was too long for us to remain and speak after driving two and half hours each way to attend. There was no effort on the persons holding the meeting to allow far travelled individuals to speak first. In past public hearings I have seen the process of allowing those who lived the furthest to speak near the beginning. It was unfortunate that our trip was unsuccessful.

Comment #041-5

The EIS for Docket No. 70-3103 was fairly informative and comprehensive document, however there are several issues which I would like to see addressed in greater detail.

Comment #041-1

The first issue is a request to demonstrate scientifically that the hydrolgeologic integrity of the area will not be compromised by the construction of retention and detention ponds and septic systems. I feel that this is very important and should be model to include the surrounding area because of the activities on the neighboring properties. There is a quarry, hazardous waste burial site, proposed low level radioactive waste burial site, municipal landfill and oil and gas operations. All of these activities penetrate the ground and disrupt the existing geologic formations. Since the existance of the hazardous waste burial site is predicated on the unique geology and semi-desert conditions it seems that it is imperative to demonstrate that the additional water and penetrations will not effect the existing activities. There is some mention of the Waste Control Specialists Hazardous Waste Burial site but there does not seem to be any consideration of the proximity of these activities and how they might interact with a perched water table which is expected to form at the proposed National Enrichment Facility.

The next issue also arises because of the surrounding land uses. The proposed monitoring program is good but not frequent enough considering that there will be continued disruption of the geologic units by the neighbors and that there is an application by WCS for locating a low level radioactive waste burial site at the existing hazardous waste burial site. I would think that a schedule of monthly or more frequent depending on the weather conditions would be more protective of the environment and human health. An example of conditions which would suggest more frequent monitoring might occur during high winds when there is a potential for blowing dust out of the dry retention pond that was expected to have a small accumulation of uranium and associated chemicals. In addition, during high precipitation events when there is the potential of overflow from the detention pond an hourly sampling would produce data that could be used to quantify the existing concentrations of potential pollutants and thus provide data for modelling environmental effects if an over flow occurs. In addition there was no mention of public access to these data. Where and how frequently will the data be posted? A yearly summary as mentioned is not adequate for an informed public.

Comment #041-2

Comment #041-3

Thank you for your attention to these issues.

Sincerely,

Dr. Melanie Barnes
2815 23rd St
Lubbock TX 79410

806 928 1098 (cell)

Another issue needing a bit more discussion is the training of a local workforce. There was mention of working with local colleges, however there was no mention of working with the local high schools and possibly providing monies for extra science teachers in order to insure high school graduates who could continue in the fields needed for employment at the National Enrichment Facility.

Comment #041-4

CC: <mbarnes27@cox.net>

Commenter 042

From: "Tannis Fox" <tannis_fox@nmenv.state.nm.us>
To: <nrcrep@nrc.gov>
Date: Mon, Nov 8, 2004 4:13 PM
Subject: LES Docket No. 70-3103/New Mexico Environment Department Comments on Draft EIS

Attached for filing are the comments of the New Mexico Environment Department on the draft Environmental Impact Statement for the Proposed National Enrichment Facility in Lea County, New Mexico prepared by NRC Staff.

CC: "David Repka" <drepka@winston.com>, "Karen Fisher" <kfisher@ago.state.nm.us>, "Lisa Clark" <lbc@nrc.gov>, "Steve Farris" <sfarris@ago.state.nm.us>, "Chris Coppin" <ccoppin@ago.state.nm.us>, "Glenn Smith" <gsmith@ago.state.nm.us>, "Lindsay Lovejoy" <lindsay@lindsaylovejoy.com>, "Angela Coggins" <abc1@nrc.gov>, "James Curtiss" <jcurtiss@winston.com>, "David Pato" <dpato@ago.state.nm.us>, "Jon Goldstein" <jon_goldstein@nmenv.state.nm.us>

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November 8, 2004

By electronic mail (nrcrep@nrc.gov) and mail

Chief, Rules Review and Directives Branch
Division of Administrative Services
United States Nuclear Regulatory Commission
Mailstop: T6-D59
Washington, DC 20555-001

Re: NMED Comments on Draft EIS for LES - Docket Number 70-3103

Dear Chief of the Rules Review and Directives Branch:

The New Mexico Environment Department (NMED) hereby submits its comments on the draft Environmental Impact Statement (EIS) for the Proposed National Enrichment Facility in Lea County, New Mexico prepared by Nuclear Regulatory Commission (NRC) Staff. NMED submits comments on the sections in the draft EIS concerning impacts on waste management, ground water, surface water, and air quality and concerning radiological impacts.

Waste Management

Louisiana Energy Services, LP (LES) proposes to store the depleted uranium that will be generated by its proposed facility for up to the thirty-year life of the facility. LES has put forth various strategies for final disposition of the depleted uranium, but final disposition of uranium byproduct cylinders still remains uncertain. Storage of the depleted uranium for up to thirty years, or longer, and the uncertainty of a disposition pathway represent an unacceptable risk to the citizens of New Mexico and to our environment. ***Comment #042-1***

Ground Water and Related Issues

1. As proposed in the draft EIS, the leachate from the septic system may result in contaminant transport in the alluvium up to two miles off site, where the waters may pose a threat of contamination to an ephemeral drainage or to aquifers as recharge. If this scenario or any other ground water contamination occurred, abatement would be required under the New ***Comment #042-2***

Comment #042-2 (cont.)

Mexico Water Quality Act and water quality regulations.

NMED is currently reviewing LES's application for a discharge permit under the New Mexico Water Quality Act and water quality regulations. If LES's application is not protective of ground water, the operation and design of the septic system may require modification prior to NMED approval of the discharge permit to prevent ground water contamination and discharge to an ephemeral drainage.

2. Page xxi, lines 44-49 and page xxii lines 1-5. Infiltration is expected from septic and storm water detention basin. This section states that water will perch on the Chinle layer and that there would be limited transport because of upward flux to the root zone. Later, however, the draft EIS defines the limited transport as potentially off-site contamination for approximately 2 miles. These sections are inconsistent between themselves. *See* comments 17, 18, and 19. *Comment #042-3*

3. Table 1-2, page 1-12. As a clarification, the New Mexico Water Quality Act applies to permitting prior to construction, during operation, closure, post-closure and abatement, if necessary. Also, all monitor wells would require a permit from the New Mexico Office of the State Engineer. *Comment #042-4*

4. Page 2-2, lines 26-31. As a clarification, there is ground water at approximately 220 feet and 600 feet and ground water has the potential for localized occurrences in the alluvium at approximately 30 to 50 feet (as indicated on page 3-35 lines 41-74). Because these waters have total dissolved solids less than 10,000 milligrams per liter, all of the ground water is subject to protection under New Mexico Water Quality Control Commission Regulations, 20.6.2 NMAC. *Comment #042-5*

5. Page 2-14, lines 19-25 and Figure 2-10. LES should provide a comprehensive water balance to illustrate projected water supply, demand and losses. It would be easiest to evaluate a single figure each for the construction phase and the operational phase. *Comment #042-6*

6. Page 3-26, lines 33-36 and page 3-29, Table 3-8. The "Cretaceous Age" Antlers Formation is an error when compared to the Table 3-8 because the Antlers Formation is Tertiary Age. If the following is the correct interpretation, the sentence should be rewritten to explain the evidence of a reverse fault in Triassic Beds. There was no fault displacement through the younger Antlers Formation. Currently, the sentence is unclear because a clause modifies Triassic beds and not the fault. *Comment #042-7*

7. Page 3-26, Figure 3-16. The geologic cross section provided in Figure 3-16 is based on another report, the July 2004 LES environmental report. The EIS should address how many drilling locations were used to draw the cross section; whether there is a plan map that shows the control points for the cross section; whether the dune sands recharge areas are located to the north and south of the proposed site; and how close will the cut and fill construction (maximum 13 feet deep) be to the Ogallala Formation. *Comment #042-8*

8. Page 3-27, lines 15-19. The EIS should provide an explanation of the petroleum resources and exploration holes on the proposed LES site. Improperly sealed or abandoned drill holes would provide conduits for contamination. The EIS should address whether there are any existing or former well locations for petroleum within the proposed site boundary. *Comment #042-9*

Comment #042-009 (cont.)

9. Page 3-27, lines 41-47. The EIS should address whether the dunes and alluvial deposits are part of a recharge area for shallow or deep aquifers southward from the site. *Comment #042-10*

10. Page 3-32, lines 19-22. Net evaporation is cited as 65 inches per year. The EIS should address whether design measures considered the concentration of salts and other contaminants in basins and ponds. *Comment #042-11*

11. Pages 3-34 and 3-35. The State of New Mexico regulates ground water with total dissolved solids concentrations less than 10,000 milligrams per liter. The shallow ground water occurrences or perched zones on adjacent properties are considered ground water if there are usable quantities of water even though the aquifer may be of limited horizontal or vertical extent. Also, some shallow ground water zones may recharge other aquifers or discharge to ephemeral drainages. *Comment #042-12*

12. Page 3-35. The statement, "Field investigation and computer modeling were used to show that no precipitation recharge occurs (i.e., rainfall seeping deeply into the ground) in thick, desert vadose zones with desert vegetation", may conflict with subsequent paragraphs. For example, the draft EIS identifies thick vadose areas with deep percolation, in particular episodic recharge events in ephemeral drainages without vegetation (e.g., Monument Draw), on sand dunes or seasonally when less evaporation or transpiration occurs during the winter. NMED agrees that evaporation and transpiration have the potential to affect water in the vadose zone to a depth of a few to even tens of feet, however there are site specific conditions and seasonal variations that create exceptions to the effects of evaporation and transpiration. *Comment #042-13*

13. Page 3-37. The draft EIS states that there are no wells within one-mile of the site, but then states that the nearest municipal supply wells are 20 miles to the north of the site. The EIS should address, however, how close the nearest domestic and livestock wells are to the site. In this regard, NRC Staff should consult with the Office of the State Engineer to determine the nearby wells because that office has records of such wells. *Comment #042-14*

14. Page 3-42, Table 3-11. According to the draft EIS, the total dissolved solids (TDS) concentration of 2,500 milligrams per liter (mg/L) is less than the combined concentrations for chloride and sulfate of 3,800 mg/L. However, the TDS concentration cannot be less than the sum of the concentrations reported for the individual parameters. Field pH and laboratory results for sodium, potassium, magnesium, calcium, alkalinity (bicarbonate and carbonate) should be included in future analysis. *Comment #042-15* *Comment #042-16*

15. Pages 3-42 and 3-43, Table 3-11. The existing regulatory standard for uranium in New Mexico ground water is 0.030 mg/L, not 0.005 mg/L. The existing regulatory standard for copper in New Mexico ground water is 1.0 mg/L, not NS (no standard). *Comment #042-17*

16. Page 4-12, lines 35-43. To avoid any confusion with the term "geosynthetic" liner, *Comment #042-18*

NMED recommends use of "synthetic liner." A High Density Polyethylene (HDPE) or similar synthetic liner will be required. Some geosynthetic liners have bentonite or other clays without an adequate HDPE thickness. Clay was mentioned as the topmost layer above the synthetic liner. The Treated Effluent Evaporative Basin (TEEB) is expected to be dry 1 to 8 months during the year. Drying will cause the clay layer to crack and reducing its effectiveness as a barrier to flow. The clay may offer resistance to ultraviolet (UV) ray damage to a synthetic liner, while some synthetic liners are UV resistant. As the process water dries and when salts dissolve again, the water contaminants in the TEEB will become more concentrated. The EIS should consider impacts from the concentration of salts and other contaminants in basins and ponds.

Comment #042-18 (cont.)

17. Page 4-13. The Site Stormwater Detention Basin is predicted to infiltrate and form a perched aquifer in the alluvium above the Chinle Formation. The resultant episodic recharge events may cause some ground water to migrate 2 miles down gradient and discharge at Custer Mountain or southeast of Monument Draw. LES must monitor the alluvial material for both ground water quality and the water levels to determine if the water is present or may move off site. A system of alluvial dry wells will be necessary to serve as an early detection system in case the preventive measures fail to eliminate or detect all leaks.

Comment #042-19

18. Page 4-14. The septic system may form a perched aquifer along with the stormwater that could have off-site impacts. The septic system should be consistent with NMED Ground Water Quality Bureau Guidelines for Design Criteria, Operation and Maintenance. Given the potential impacts cited, it may be necessary to consider an alternate design to reduce the potential formation of a perched ground water and contaminant transport off site.

Comment #042-20

19. Page 4-14, lines 13-22. Having no ground water users within 2 miles down gradient today does not ensure that there will be no users in the future. Whether there are current users or not, the ground water on- and off-site is protected under the New Mexico Water Quality Act and water quality regulations. Therefore, any on- or off-site ground water contamination would have to be abated under New Mexico water quality regulations. The off-site water movement may recharge other aquifers or discharge to surface water of the United States, which includes ephemeral drainages.

Comment #042-21

20. Page 4-15, lines 42-43. The term "nonrenewable water source" may not be appropriate for an aquifer that has the potential to receive recharge or recover from reduced demand. Due to local and regional demands for water, the Ogallala aquifer has been mined faster than the recharge rate.

Comment #042-22

21. Page 4-60, lines 16-24. During the decommission plan development and implementation, LES must involve NMED to ensure that closure activities meet state regulations in addition to the NRC requirements.

Comment #042-23

22. Page 6-8, lines 40-42. LES reports that effluent concentrations for the TEEB will be 0.225 mg/L for uranium. This uranium concentration will rise by evaporation. The EIS should evaluate the concentration by evaporation.

Comment #042-24

23. Page 6-13, lines 6-10. LES will likely be required by NMED to add three alluvial wells, which will be completed in the alluvium at the top of the Chinle to monitor any leakage or changes in water quality from the ponds or septic system. The alluvial wells should be monitored quarterly for water levels and would be sampled when water is present.

Comment #042-25

24. Page 6-16, lines 17-22. The NMED Ground Water Quality Bureau (GWQB) discharge permit will likely require annual sampling of the septic system for TKN, nitrate, total dissolved solids and chloride.

Comment #042-26

25. Page 6-17, line 11. Ground water sampling and analyses for the GWQB discharge permit will also include major ions (e.g., Cl, SO_4, TDS, F, Na, Ca, Mg, K) and field parameters of electrical conductance, temperature and pH.

Comment #042-27

26. Page 6-19, lines 20-37. From the meteorological station, the precipitation measurements may provide some additional means to verify the adequacy of stormwater pond designs and management in a timely fashion. For example, rainfall events above 0.25 inch would trigger a visual inspection for the proper functioning of the site stormwater systems and evaporation pond.

Comment #042-28

Surface Water

1. The United States Environmental Protection Agency (USEPA) requires National Pollutant Discharge Elimination System (NPDES) Construction General Permit (CGP) coverage for storm water discharges from construction projects (common plans of development) that will result in the disturbance or re-disturbance of one or more acres, including expansions, of total land area. Because the project, as described in the draft EIS, exceeds one acre (including staging areas), it will require appropriate NPDES permit coverage prior to beginning construction. Small construction projects (one to five acres) may be able to qualify for a waiver in lieu of permit coverage. *See* Appendix D in CGP.

Among other things, the Construction General Permit requires that a Storm Water Pollution Prevention Plan (SWPPP) be prepared for the site and that appropriate Best Management Practices (BMPs) be installed and maintained both during and after construction to prevent, to the extent practicable, pollutants -- primarily sediment, oil, grease and construction materials from construction sites-- in storm water runoff from entering waters of the United States. The permit also requires that permanent stabilization measures, e.g., revegetation and paving, and permanent storm water management measures, e.g., storm water detention or retention structures as described in the draft EIS and velocity dissipation devices, be implemented post construction to minimize, in the long term, pollutants in storm water runoff from entering these waters. In addition, permittees must ensure that there is no increase in sediment yield and flow velocity from the construction site, both during and after construction, compared to pre-construction, undisturbed conditions. *See* Subpart 9.C.1 in CGP.

EPA requires that all "operators" obtain NPDES permit coverage for construction projects. *See* Appendix A in CGP. Generally, this means that at least two parties will require permit coverage: the owner/developer of the construction project who has operational control over project

Comment #042-29

specifications (LES in this case) and the general contractor who has day-to-day operational control of those activities at the site, which are necessary to ensure compliance with the storm water pollution prevention plan and other permit conditions. It is possible that other "operators" will require appropriate NPDES permit coverage for the project. *Comment #042-29 (cont.)*

The CGP was re-issued effective July 1, 2003. *See* Federal Register, Vol. 68, No. 126, July 1, 2003, p. 39087. The CGP, Notice of Intent (NOI), Fact Sheet, and Federal Register notice can be downloaded at http://epa.ctgusa.com/npdes/stormwater/cgp.cfm.

2. Once all associated construction activities are terminated and final stabilization is achieved, the facility may require coverage under the NPDES multi-sector general permit (MSGP). Proposed industrial activities at the completed facility may fall under Sector F, Chemical and Allied Products, as described in the MSGP. *See* Federal Register, Vol. 65, No. 210, October 30, 2000. In addition, regulatory requirements for each sector are additive if a facility engages in more than one industrial activity as identified in the MSGP. *Comment #042-30*

The EIS states that LES is in the process of deciding whether to submit a "No Exposure Certification for Exclusion from NPDES Storm Water Permitting." While EPA makes this exclusion available to most industries that may otherwise require permit coverage under the MSGP, such an exclusion is rarely granted for facilities of the size proposed in the EIS. *Comment #042-31*

Air Quality

1. This project is proposed to be located in Lea County, which is currently considered to be in attainment of all state and national ambient air quality standards. The draft EIS, p. 3-20, states incorrectly that there have been no instances where particulate matter has exceeded National Ambient Air Quality Standard (NAAQS), as monitored by NMED. This is not correct. An exceedance of the NAAQS for particulate matter 10 microns or less in diameter (PM_{10}) has been recorded in Hobbs, New Mexico. NMED is currently developing a Natural Events Action Plan (NEAP) for Lea County. The NEAP will require Best Available Control Measures (BACM) to minimize blowing dust from anthropogenic sources. The EIS, therefore, should address how BACM will be employed at the facility. *Comment #042-32* *Comment #042-33*

2. In addition to the NAAQS, New Mexico has state ambient air quality standards that are outlined in Title 20, Chapter 2, Part 3 of the New Mexico Administrative Code (20.2.3 NMAC). The EIS should address these standards and whether these standards will be met. Table 3-6 should be expanded to include the state standards for hydrogen sulfide (H_2S), total reduced sulfur (TRS), and total suspended particulate (TSP). *Comment #042-34*

3. The EIS does not address requirements of 20.2.72 NMAC, Construction Permits, regarding minor source permitting and the state toxic air pollutants program. State regulated air toxics should be identified and, as applicable, emissions quantified. *Comment #042-35*

4. Any requirements under 20.2.73 NMAC, Notice of Intent and Emission Inventory Requirements, should also be addressed. *Comment #042-36*

Radiological Exposure

1. Regarding Section C.4.2 of Appendix C: The probabilities of occurrence should be calculated and indicated for each of the accident scenarios discussed in Section C.4.2 of Appendix C. Doing so would better communicate to the reader the likelihood of such occurrences, allowing the reader to determine whether said occurrences and associated consequences are acceptable. *Comment #042-37*

2. Regarding Subsection 4.2.13 of Section 4 "Environmental Impacts" and Subsection C.4.3 of Appendix C "Dose Methodology and Impacts": No remediation measures are itemized, discussed, and assessed that would mitigate long-term exposures resulting from the hydraulic rupture of a UF_6 cylinder postulated in Subsection 4.2.13 of Section 4 "Environmental Impacts or Subsection C.4.3 of Appendix C "Dose Methodology and Impacts." Neither are such remediation measures itemized, discussed, or assessed in the LES license application. However, the possible rupture of a UF_6 cylinder discussed in Subsection C.4.2.2 of the draft EIS estimates 7 latent cancer fatalities (LCF). Given the severity of consequences resulting from such a cylinder rupture, planning is necessary for timely remediation to minimize public radiation dose and adverse biotic effects. Recommended actions, anticipated costs, and funding sources should be itemized and discussed in the EIS. Finally, the environmental impacts from such a remediation project should also be discussed and assessed. *Comment #042-38*

Miscellaneous

1. Page xxii, lines 5-6. Delete 'the' and 'territory' from "...Hobbs water supply system would constitute a small portion of the aquifer reserves from the New Mexico territory." The sentence would read, "...small portion of the aquifer reserves from New Mexico." *Comment #042-39*

2. Page 1-10, lines 37-48. The first reference, "New Mexico Environment Department/Water Quality Bureau," should be to "New Mexico Environment Department/Drinking Water Bureau" and the second reference to "New Mexico Environment Department/Ground Water Quality Bureau." *Comment #042-40*

3. Page 3-17, lines 17-25. The EIS should address what measures will be in place to prevent windborne transport of concentrated salts and other contaminants from the evaporation and storm water retention basins. *Comment #042-41*

4. Page 3-27, lines 3-11. Earthquakes in the vicinity of the site are cited as being isolated, small clusters of low- to moderate-sized events. The EIS should address what magnitude seismic events are considered low- to moderate-sized events. *Comment #042-42*

5. Page 4-53, lines 1-27. LES cites a cylinder management program to limit exterior corrosion at Paducah, Kentucky; Portsmouth, Ohio; and Oak Ridge, Tennessee sites. The EIS should address whether the cylinder management program considers climatic differences (e.g., evaporation that may concentrate corrosive salts, heat that may increase reaction rates) at Eunice, New Mexico. *Comment #042-43*

6. Page 5-5, lines 5-7 and lines 29-31, and page 5-6 lines 3-4. The recommended frequency of annual inspections appears appropriate for the detailed inspections. The EIS should address the frequency of visual inspections. Under the current description, only the annual inspection would trigger additional inspections. The EIS should address whether there would be inspections following large diameter hail, lightning or other severe weather events at the facility. *Comment #042-44*

7. Page 8-1, lines 26-47 and page 8-2, lines 1-8. According to the list of agencies and persons consulted, NMED and Office of the State Engineer were not contacted. These state agencies would be appropriate to contact in the development of an EIS, which evaluates impacts to the water quality and quantity. *Comment #042-45*

8. Page C-25, lines 13-21. LES should mention a specific magnitude of earthquake used for the design basis. *Comment #042-46*

Thank you for considering the comments of the New Mexico Environment Department.

Please feel free to contact me if you have any questions regarding our comments.

Sincerely,

Tannis L. Fox
Deputy General Counsel

cc: Governor Bill Richardson
Ron Curry, Secretary, NMED

J-141

FOREST GUARDIANS

Commenter 043

November 5, 2004

Chief, Rules Review and Directives Branch
U.S. Nuclear Regulatory Commission
Mail Stop T6-D59
Washington, D.C. 20555-0001
email: nrcrep@nrc.gov

VIA FAX, ELECTRONIC AND POSTAL MAIL

Re: Report Number NUREG-1790

Dear Rules and Directives Branch,

These comments are submitted on behalf of Forest Guardians and its members. Forest Guardians seeks to preserve and restore native wildlands and wildlife in the American Southwest through fundamental reform of public policy and practices.

We have reviewed the environmental impact statement (EIS) for the proposed National Enrichment Facility in Lea County, New Mexico, and we remain concerned about impacts of this facility to imperiled species. We integrate by reference our scoping comments, dated March 18, 2004, in their entirety. *Comment #043-7*

Eunice is located in Lea County, which is an important biodiversity hotspot in the state. The EIS indicates the presence of shinnery oak on the facility site. Sand shinnery communities should be rigorously safeguarded given that they are finite and host a highly specialized suite of wildlife. The sand shinnery community consists of oak forests which extend across five to seven million acres in New Mexico, Texas, Oklahoma, Arizona, and Utah and constitute the country's largest stand of oak. Sand shinnery communities are co-dominated by shrubs and a mixture of grasses, the compostion of which varies by region. *Comment #043-1*

Unfortunately, a bevy of threats face this ecosystem, including herbicide treatment, oil and gas development, livestock grazing, and habitat destruction such as that associated with the proposed facility. Altogether, over 1.2 million acres of sand shinnery have been lost to cropland conversion and the application of herbicides for rangeland conversion. As the sand shinnery is destroyed or degraded, the repercussions impact wildlife most closely associated with this unique landscape. *Comment #043-1 (cont.)*

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In addition to the lesser prairie-chicken and sand dune lizard, a bounty of other wildlife finds sustenance in the sand shinnery. Mule deer, white-tailed deer, pronghorn, and javelina are the most conspicuous. In addition, black-tailed jackrabbits, eastern cottontails, a variety of burrowing mammals (pocket gophers, kangaroo rats, moles, ground squirrels), shrews, songbirds, mammalian predators, raptors, turtles, snakes, arthropods, and others benefit from a healthy sand shinnery ecosystem.

Shin-oak commonly attain ages of hundreds and probably thousands of years. Most reproduction is by cloning, and reproduction by seed is rare. While seldom taller than two feet high, shin-oak has a disproportionately large underground stem system that serves a vital function in sand and soil stabilization. The lateral movement of shin-oak into adjacent areas is exceedingly slow, with plants failing to encroach on old fields surrounded by shin-oak and left fallow for over 50 years. Destruction of shin-oak therefore causes virtually permanent reduction of this ecologically vital plant community. *Comment #043-1 (cont.)*

We think the impacts to lesser prairie-chicken, sand dune lizard, black-tailed prairie dog, black-footed ferret, swift fox, burrowing owl habitat are too quickly dismissed in the EIS. In particular, the cumulative impacts from this facility in conjunction with rampant oil and gas development, livestock grazing, and other harmful land uses should be examined more carefully in the EIS. Indeed, the New Mexico Department of Game and Fish raised this issue of cumulative impacts in its scoping comments (EIS at B-46). Amazingly, in the section of the EIS on cumulative impacts, there is no discussion of impacts to native wildlife and plant species (EIS at 4-65 to 66). *Comment #043-2*

Moreover, while the EIS acknowledges potential habitat for many of the species about which we raised concerns in our scoping comments, the EIS finds that the species won't be harmed because the habitat is not occupied. However, in a world of ever shrinking habitat, and in particular, ever shrinking grassland and shinnery oak, potential (but unoccupied) habitats will become increasingly vital to preserving biodiversity. *Comment #043-3*

Importantly, this EIS was released without completing consultation with the US Fish and Wildlife Service over impacts to the northern aplomado falcon and black-footed ferret, both of which are listed under the ESA (50 C.F.R. § 17.11). Without full consultation information, the public is unable to weigh in on this issue, in contravention of the National Environmental Policy Act. *Comment #043-4*

There is also no evidence that the Nuclear Regulatory Commission is taking seriously the mandate to promulgate conservation plans (defined as recovery under the ESA) for listed species, as mandated by the ESA at Section 7(a)(1) (See 16 U.S.C. § 1536(a)(1)). *Comment #043-5*

We underscore that, in addition to our concerns about impacts of this project on imperiled species, we are also alarmed at potential impacts to water quality and quantity, air quality (e.g. spread of radioactive dust), and harms to human health should this plant be built and put into operation. These issues have not be sufficiently addressed nor mitigated in the EIS. *Comment #043-6*

Forest Guardians has advocated for the protection of native animals, plants, and their habitat for 15 years in the state of New Mexico. We have over 1,500 members, most of whom reside in the state. We thank you for your thorough review of our concerns.

Sincerely,

Nicole J. Rosmarino, Ph.D.
Conservation Director

From: "Nicole Rosmarino" <nrosmarino@fguardians.org>
To: <LES_EIS@nrc.gov>
Date: 3/18/04 4:58PM
Subject: Forest Guardians Comments in re Docket Number 70-3103

Please find copied below and attached in pdf format our comments in re Docket Number 70-3103.

Nicole J. Rosmarino, Ph.D.

Endangered Species Director

Forest Guardians

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J-143

March 18, 2004

Rules and Directives Branch
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FAX (301) 415-5398, ATTN: Melanie Wong

VIA FAX, ELECTRONIC AND POSTAL MAIL

Re: Docket Number 70-3103

Dear Rules and Directives Branch,

In response to Federal Register of February 4, 2004 (Volume 69, Number 23) regarding a gas centrifuge uranium enrichment facility proposed to be built near Eunice, New Mexico by Louisiana Energy Services (LES), I request that the Nuclear Regulatory Commission (NRC) carefully consider the impacts to imperiled species when conducting environmental analysis (in the form of an Environmental Impact Statement (EIS)) for this project.

FOREST GUARDIANS

March 18, 2004

Rules and Directives Branch
U.S. Nuclear Regulatory Commission
Mail Stop T6-D59
Washington, D.C. 20555-0001
LES_EIS@nrc.gov
FAX (301) 415-5398, ATTN: Melanie Wong
VIA FAX, ELECTRONIC AND POSTAL MAIL

Re: Docket Number 70-3103

Dear Rules and Directives Branch,

In response to Federal Register of February 4, 2004 (Volume 69, Number 23) regarding a gas centrifuge uranium enrichment facility proposed to be built near Eunice, New Mexico by Louisiana Energy Services (LES), I request that the Nuclear Regulatory Commission (NRC) carefully consider the impacts to imperiled species when conducting environmental analysis (in the form of an Environmental Impact Statement (EIS)) for this project.

Eunice is located in Lea County, which is an important biodiversity hotspot in the state. We are concerned that the construction and operation of this plant would cause harms to imperiled wildlife, including, but not limited to, the lesser prairie chicken (Tympanuchus pallidicinctus), sand dune lizard (Sceloporus arenicolus), black-tailed prairie dog (Cynomys ludovicianus), black-footed ferret (Mustela nigripes), and northern aplomado falcon (Falco femoralis septentrionalis). The NRC should request a full list of species of concern, threatened, endangered, sensitive species from the U.S. Fish and Wildlife Service.

First, Lea County contains shin-oak (Quercus havardii), which is vital habitat for many wildlife species, including the lesser prairie chicken and sand dune lizard. Both of these species are currently formal candidates for Endangered Species Act listing. Once abundant throughout their range in eastern New Mexico, the lesser prairie-chicken has been extirpated from 56% of its former range in the state and persists only as sparse and scattered populations in another 28% of that range. The core of the remaining populations occupies only 16% of its former range (Bailey and Williams 2000). The sand dune lizard

is verging on extinction (USFWS 2001) and all anthropogenic threats to its survival must be promptly removed (including and especially habitat loss and degradation).

Second, north of Eunice exists one of densest concentrations of black-tailed prairie dogs in the state. Lea County is one of only five counties within the historic range of the black-tailed prairie dog in New Mexico that contain over 5,000 acres of prairie dog colonies (Johnson et al. 2003). This prairie dog species is a formal candidate for ESA listing (65 Federal Register 5476-5488 (February 4, 2000). One of the primary causes of continued prairie dog decline is habitat loss and degradation (Ibid). In addition, prairie dogs provide vital habitat for the black-footed ferret, mountain plover, swift fox, ferruginous hawk, and burrowing owl (Miller et al. 1994; 1996). The black-tailed prairie dog is considered a keystone species, which creates habitat and serves as a prey base for a wide variety of associated wildlife (Kotliar et al. 1999; Miller et al. 2000).

The most imperiled member of the prairie dog ecosystem is the black-footed ferret. The ferret is listed as Endangered under the ESA (50 C.F.R. § 17.11). A 1984 NM Department of Game and Fish report on the ferret in NM provided among its recommendations the following:

- Assume the ferret is still a member of the state's fauna and that it could occur anywhere that prairie dogs occur.
- Conserve prairie dog towns statewide, with special emphasis on public lands—where these animals should be accorded a portion of the available forage and other resources in a genuine multiple use framework. (Hubbard and Schmitt 1984: 111).

Third, the northern aplomado falcon is listed as Endangered under the ESA (50 C.F.R. § 17.11). This critically imperiled subspecies likely disappeared from the U.S. in the 1950s due to habitat destruction (51 Fed. Reg. 6686-90 (February 25, 1986)). There is potential falcon habitat in southern Lea County and there have been sightings of falcons in the county since the 1950s (See Forest Guardians et al. 2002).

In addition to our concerns about impacts of this project on imperiled species, we are also alarmed at potential impacts to water quality and quantity, air quality (e.g. spread of radioactive dust), and harms to human health should this plant be built and put into operation. This issues should be thoroughly assessed in analyses for this project.

Forest Guardians has advocated for the protection of native animals, plants, and their habitat for nearly 15 years in the state of New Mexico. We have over 1,500 members, most of whom reside in the state. We thank you for your thorough review of our concerns.

Sincerely,

Nicole J. Rosmarino

Nicole J. Rosmarino, Ph.D.
Endangered Species Director

References Cited

Bailey, J.A. and S. Williams III. 2000. "Status of the Lesser Prairie-Chicken in New Mexico, 1999." The Prairie Naturalist 32(3): 157-168; and Bailey, J.A. 2002. "Status of the Lesser Prairie-Chicken in southeast New Mexico and southeast Chaves county, 2001." Unpublished report, Santa Fe, NM. 5 pp.

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U.S. Fish and Wildlife Service. 2001. Candidate and listing priority assignment form for the sand dune lizard.

Commenter 044

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

November 05, 2004

Anna Bradford
Chief, Rules Review and Directives Branch
United States Nuclear Regulatory Commission
Mail Stop T6-D59
Washington, D.C. 20555-0001

Dear Ms. Bradford:

In accordance with our responsibilities under Section 309 of the Clean Air Act, the National Environmental Policy Act (NEPA), and the Council on Environmental Quality Regulations (CEQ) for Implementing NEPA, the U.S. Environmental Protection Agency (EPA) Region 6 office in Dallas, Texas, has completed its review of the Draft Environmental Impact Statement (DEIS) for the proposed National Enrichment Facility in Lea County, New Mexico. The proposed facility would produce enriched uranium-235 up to 5 weight percent by the gas centrifuge process with a production of 3 million separate work units per year.

The DEIS evaluates the potential environmental impacts of the proposed action, reasonable alternatives and no action. The DEIS describes the environmental effects and describes the environmental monitoring program and mitigation measures. The proposed action would contribute to the attainment of the national security energy policy directives. Overall impacts both cumulative and direct have been evaluated as having a small impact on the environment. Most impacts are avoided and/or significantly reduced through site selection and mitigation.

J-145

EPA classified your DEIS and proposed action as "LO," i.e., EPA has "Lack of Objections". Our classification will be published in the Federal Register according to our responsibility under Section 309 of the Clean Air Act, to inform the public of our views on proposed Federal actions.

Comment #044-1

We appreciate the opportunity to review the supplemental information. We request that you send our office one (1) copy of the FEIS at the same time that it is sent to the Office of Federal Activities (2251A), EPA, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20044.

Sincerely yours,

Michael P. Jansky, P.E.
Regional EIS Coordinator

Commenter 045

Public Comment Form
Draft Environmental Impact Statement
for the Proposed National Enrichment Facility in Lea County, New Mexico
NUREG-1790

Name: GLEN A GRAVES

Address: LOS ALAMOS EDUCATION GROUP
P.O. Box 386
LOS ALAMOS, NM 87544

Comment:

The NEF license should be issued. The plant would have minimal environmental impact and substantial positive socioeconomic impact on its region, and would benefit the whole state. Energy independence for America is a further consideration that would be enhanced by operation of this plant, not only from the domestic fuel feed it produces but also for its significant help in diversifying and cleaning up our energy supply.

Comment #045-1

The plant's value is easily demonstrated. Calculations show that the 5% U-235 content in a single 7-foot long, 30-inch diameter, NEF product cylinder containing 2 1/2 tons of uranium hexafluoride has the same potential energy release when fissioned as the burning of over one million barrels of oil or the burning of 250,000–300,000 tons of good to medium grade coal. In full production, the NEF would supply up to 250 of these product cylinders annually, equivalent in energy to 250 million barrels of oil costing 12 billion dollars at current prices.

Failure to construct this plant might have national socioeconomic impacts down the road. Our current 104 nuclear plants and their indispensable electricity generation would be more vulnerable to arbitrary and unassailable fuel cost increases, because 85% of our enriched fuel supply now comes from foreign sources beyond US control. Supply shortages might also result from growing international competition (as nuclear power plant numbers increase abroad), or from foreign political actions - e.g., if cooling international relations led to the reduction or cessation of the supply of highly enriched uranium (HEU) from Russia to the US for "blend down" under present "megatons to megawatts" agreements. These are risks we need not and should not accept. The NEF could supply as much as 25% of our domestic needs.

To submit your comment, please give this form to an NRC representative at tonight's meeting, or mail to: Chief, Rules and Directives Branch, Division of Administrative Services, Mailstop T-6D59, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001
Your comments should be mailed in time to reach the NRC by November 6, 2004

The NEF would have negligible local environmental impacts from the temporary storage of UBCs (uranium byproduct containers), regardless of their number or duration. They contain relatively little radioactivity, because their uranium was stripped of its accumulated chain decay products when its ore was purified at the mill, and these will not fully regenerate for tens of thousands of years. For similar reasons, the low level plant wastes can be disposed of readily at existing sites. More importantly, the UF6 in the UBCs is solid to temperatures much higher than any ambient temperatures at the site and the containers can neither support nor propagate a fire.

This plant should have zero nuclear proliferation risks. The plant lacks the capability to produce uranium product remotely approaching the enrichments needed for nuclear weapons and could not do so without extensive enlargement and immediately detectable modifications. But the fuel grade enriched uranium needed to supply US power plants must be and will be produced by a plant either in the US or abroad. That demand is fixed. Building or not building the NEF will not change it, but having the enrichment plant under US observation and regulation is best for our economy and our security.

Much more nuclear power is needed for the US, not only to diversify our energy supply and reduce our dependence on foreign sources, but also to assure extraordinarily small impacts on the environment and displace vastly more polluting sources.

To illustrate, nuclear energy produces absolutely no global warming gases or sulfur dioxide (acid rain), and has an exceedingly small waste stream. The fuel pellets removed from a reactor contain the entire radioactivity from their energy-producing fission events, and do not exceed the volume of the material initially used to form them. Though one would not do so, the roughly 2 1/2 tons of "spent fuel" pellets derived from an original 7-foot long, 30-inch diameter, NEF enriched-product cylinder could be physically fitted back into that space. In an almost unimaginable contrast, getting the same amount of energy from burning coal would produce roughly one million tons of CO2 (and some SO2), along with 30,000 tons of ash and slag!

As the US and the world move tentatively but increasingly to the use of hydrogen as a very low pollution fuel for automobiles and trucks, it must be remembered that hydrogen is only a carrier of energy, not a free source found in nature. We must make it to use it. Because of imperfect process efficiency, more energy is always required for its production than it can deliver in end use. The electricity to make it - e.g., by electrolysis of water – must come either from fossil fuel (coal, oil, or gas) or from nuclear generating stations. Using fossil fuels as energy sources to make hydrogen merely moves the sites of pollution (from vehicles to power plants) and changes its type to some degree, but does not particularly lower greenhouse gas emissions nor the potential for global warming. The pollution reducing advantages of using nuclear power for hydrogen production (as just shown) are very clear.

The so-called "alternative" energy sources also cannot meet this need. Hydrogen plants are big, complex, and very capital-intensive. If they tried to deal with the changing power availability of the wind or the diurnal variation in the sunlight, let alone the wild short-term fluctuations in solar supply from intermittent bright patches on cloud-swept days or its total loss on cloudy days, they could not function properly. The steady 24 hours per day, 7 days per week, baseload electricity and long interval between refuelings in nuclear power plants again makes them nearly ideal for this application and by far the best long-term hope for economic or pollution-free hydrogen production.

Thus, quite apart from its low environmental impact and its obvious and acknowledged economic benefits to regional employment and to the state tax base, in the national picture, the NEF offers a non-trivial and relatively important step toward a cleaner, stabler, and more independent US energy supply.

Commenter 046

Public Comment Form
Draft Environmental Impact Statement
for the Proposed National Enrichment Facility in Lea County, New Mexico
NUREG-1790

Name: DONALD F. PETERSEN

Address: LOS ALAMOS EDUCATION GROUP
PO BOX 386
LOS ALAMOS, NM 87544

Comment:

The Los Alamos Education Group wishes to thank the NRC and the citizens of Lea County for the opportunity to comment on the proposal to build the National Enrichment Facility.

The Los Alamos Education Group is a small non-profit organization consisting mostly of retired Los Alamos staff members who have spent their careers pursuing various aspects of nuclear research and who maintain an active interest in the development and expansion of nuclear energy. Several of our members have had previous contacts with the NRC related to reactor safety. These contacts include the Advisory Committee on Reactor Safeguards and the Presidents Science Advisor's Office of Energy R&D Policy. Our principal activity is providing verifiable facts and arguments to refute exaggerated and misstated claims in opposition to nuclear energy development. We have no economic interest in the National Enrichment Facility but regard it as a crucial step in acquiring energy independence for the nation as well as an asset to the State of New Mexico. Clearly, the dependence on foreign energy sources is increasing and the condition is not likely to improve because of competing energy demands by emerging economies such as China and India.

Comment #046-1

J-147

To submit your comment, please give this form to an NRC representative at tonight's meeting, or mail to: Chief, Rules and Directives Branch, Division of Administrative Services, Mailstop T-6D59, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001
Your comments should be mailed in time to reach the NRC by November 6, 2004

We agree with the findings of the NRC on the draft Environmental Impact Statement for the National Enrichment Facility and can speak authoritatively on several features of the draft EIS and the deteriorating energy supply situation. It is enormously important that alternatives to escalating imports of both nuclear fuel and petroleum be found as quickly as possible. Expanding energy requirements will outstrip supply or the economics will become prohibitive in the near future and nuclear technology is the only established approach that has the potential to supply the vast amounts of energy required to avert severe perturbation of the economy. There isn't much time to start fixing the problem.

Comment #046-5

Because of the extremely slow decay rate of U-238, the radiation hazard associated with the NEF is small under any circumstance but because of the remote site is virtually nonexistent. The measurable potential exposures are well below protection limits and the claim of "deadly radioactive waste" is a gross exaggeration.

Comment #046-6

Finally, the suggestion at this meeting that NEF could somehow contribute to proliferation or terrorism fails to recognize that the NEF license limits enrichment to 3 to 5 percent depending on customer requirements. To exceed that degree of enrichment jeopardizes the license and would result in shutdown of the NEF as soon as the violation was detected under extant monitoring conditions. Highly enriched uranium, useful in a nuclear weapon, would require a more complex plant design. Theft of the byproduct, depleted UF6, is impractical because the material is too heavy to steal and not nearly radioactive enough to be used in a dirty bomb.

Comment #046-7

Commenter 047

Public Comment Form
Draft Environmental Impact Statement
for the Proposed National Enrichment Facility in Lea County, New Mexico
NUREG-1790

Name: W.R. STRATTON

Address: LOS ALAMOS EDUCATION GROUP
P.O. BOX 386
LOS ALAMOS, NM 87544

Comment:

Steady long term employment, steady salaries would stimulate the in the whole area *Comment #047-1*

This plant is a billion and a half dollars construction effort and will produce well paid employment for decades and generations. We believe that the plant license or permit requested is 30 years, but in reality, it should be operation much longer. Nuclear power stations are now being licensed for 60years. We , New Mexico, can tax it and also the considerable economic development that will occur in SE New Mexico. The plant is therefore important for New Mexico *Comment #047-7*

During operation, about $105 million in wages and bnefits and $9.6 million in purchasing local goods and services would be spent annually. Construction and operation of the facility would have additional indirect economic impacts by creating additional indirect economic impacts by creating additional employment and economic activity.

The NRC also found that the NEF will provide more than 200 permanent jobs and more than 400 multi-year construction jobs in Southeast New Mexico The local economy will be correspondingly benefited.commerce.

To submit your comment, please give this form to an NRC representative at tonight's meeting, or mail to: Chief, Rules and Directives Branch, Division of Administrative Services, Mailstop T-6D59, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001
Your comments should be mailed in time to reach the NRC by November 6, 2004

Environmental Impact in Hobbs-Eunice Area

The stored by-product is depleted uranium hexafluoride. Uranium hexafluoride has been used since WW-2, 1944, in the diffusion plant enrichment process. To our knowledge there has been no hazard from the on-site storage of this material. The risk of harm to people or the environment is truly vanishingly small. We doubt that any radiation could be detected through the steel containers. *Comment #047-2*

We agree with the NRC's assessment that the plant will have a "small" to "moderate" impact on the local environment. These words mean that only normal, expected impact, as from a corn flakes manufacturing plant, will be created, *Comment #047-3*

The UF6 will be stored in steel cylinders in an orderly array. The very, very weak radioactive emissions of depleted uranium will be unable to penetrate the thickness of the steel containers. Thus the storage will be, essentially, not radioactive at all. *Comment #047-4*

Economic Benefit to the United States

Nuclear plants produce about 20% of the electricity for the nation. Their licences are being extended to 60 years. We can expect many more such plants to be built.

This plant will produce slightly enriched uranium for the 103 or so nuclear plants in the US. Currently, about 85% of the fuel for these plants is imported, mostly from Europe. This plant, alone, will provide 25% of the fuel for US plants, thus contributing to less dependence on foreign imports. Thus, this plant is important for the nation.

The proposed NEF would provide an additional, reliable, and economical domestic source of enrichment services. *Comment #047-5*

The by-product of the plant, depleted uranium, is a material that will be important in future years when the easily available uranium ore is used. The depleted uranium will be used in what are called "fast neutron reactors". and therefore can and should be referred to as a "resource material". These will be required for electricity production in 50-75 years. Of incidental interest, some designs of these future plants are even safer than the current design of light water reactors. *Comment #047-8*

Environmental Benefit to the United States

The burning of coal, oil, and natural gas has reached the stage where the matter of climate change or global warming is taken more and more seriously. The environmental effect of this combustion is not known accurately, but the prospects are not good. The only source of major contributions to our electric demand is nuclear energy.which emits no carbon dioxide, sulfur dioxide, mercury, uranium or fine soot particles. The plant at Eunice will provide a reliable domestic source of fuel for existing power stations and for future power stations, which we hope

and expect to be built.

The combustion of gasoline (from oil) is a major contributor to carbon dioxide and unburned hydrocarbons in the atmosphere. This is a tough nut to crack, but a first step would be encourage the use of hybrid automobiles [battery and internal combustion engines]. Propulsion of automobiles would then be, in part, from electric power This would be a slow process, but as with the replacement of coal fired power stations this is the best time to start. A carbon tax could accelerate the process.

We can refer to scholarly articles in publications such as Physics Today, Scientific American, and the National Geographic. We can probably find more.

The electric energy demand in the United States continues to climb as electricity replaces other energy sources and the population rises. This plant will provide encouragement for continued expansion of the nuclear industry. Every new nuclear plant will eliminate the need for coal or oil fired plants that would spew CO2, dust, metals and other pollution into the atmosphere. Thus the plant will contribute to the environment of the United States and is important for the whole country. This plant and nuclear power stations are "green" in the finest meaning of the environmental movement.

Comment #047-6

NATIONAL ENRICHMENT FACILITY

Commenter 048

November 5, 2004

NEF#04-045

Chief, Rules Review and Directive Branch
U.S. Nuclear Regulatory Commission
Mail Stop T6-D59
Washington, DC 20555-0001

Louisiana Energy Services, L. P.
National Enrichment Facility
NRC Docket No. 70-3103

Subject: Comments Regarding Draft Report NUREG-1790, Environmental Impact Statement for the Proposed National Enrichment Facility in Lea County, New Mexico

References:
1. Letter NEF#03-003 dated December 12, 2003, from E. J. Ferland (Louisiana Energy Services, L. P.) to Directors, Office of Nuclear Material Safety and Safeguards and the Division of Facilities and Security (NRC) regarding "Applications for a Material License Under 10 CFR 70, Domestic licensing of special nuclear material, 10 CFR 40, Domestic licensing of source material, and 10 CFR 30, Rules of general applicability to domestic licensing of byproduct material, and for a Facility Clearance Under 10 CFR 95, Facility security clearance and safeguarding of national security information and restricted data"
2. NUREG-1790, "Environmental Impact Statement for the Proposed National Enrichment Facility in Lea County, New Mexico, Draft Report for Comment," dated September 2004

By letter dated December 12, 2003 (Reference 1), E. J. Ferland of Louisiana Energy Services (LES), L. P., submitted to the NRC applications for the licenses necessary to authorize construction and operation of a gas centrifuge uranium enrichment facility. In accordance with NRC regulations for implementing the National Environmental Policy Act (i.e., 10 CFR 51, "Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions"), the NRC has prepared an Environmental Impact Statement for this proposed facility. The Environmental Impact Statement for the proposed National Enrichment Facility (Reference 2) was issued in a draft report for comment in September 2004.

LES representatives have reviewed this draft report and, in general, find it to be a comprehensive and objective assessment of the environmental impact of the National Enrichment Facility. However, some specific comments were generated during this review. These specific comments are included in the Enclosure, "LES Comments Regarding Draft Report NUREG-1790, Environmental Impact Statement for the Proposed National Enrichment Facility in Lea County, New Mexico."

One Sun Plaza 100 Sun Lane NE, Suite 204 Albuquerque, NM 87109 [P] 505 944 0194 [F] 505 944 0198

If you have any questions or need additional information, please contact me at 630-657-2813.

Respectfully,

R. M. Krich
Vice President – Licensing, Safety, and Nuclear Engineering

Enclosure:
LES Comments Regarding Draft Report NUREG-1790, Environmental Impact Statement for the Proposed National Enrichment Facility in Lea County, New Mexico

cc: T.C. Johnson, NRC Project Manager
A.H. Bradford, NRC Environmental Project Manager

ENCLOSURE

**LES Comments Regarding Draft Report
NUREG-1790, Environmental Impact Statement for the
Proposed National Enrichment Facility in Lea County, New Mexico**

1. Page 1-3, lines 4 and 5 - The following statement refers to the Separative Work Units (SWUs) purchased by U.S. nuclear reactors.

   "In 2003, the domestic enrichment services provided 14 percent of the 12 million SWUs purchased."

   Comment #048-1

   Page 1-4, line 34 - The following statement is made.

   "USEC provides approximately 56 percent of the U.S. enrichment market."

   Page 4-72, lines 47 through 49 - The following statement is made.

   "In the domestic market, USEC currently supplies approximately 56 percent of enriched uranium needs while foreign suppliers provide the remaining 44 percent."

   These statements should be clarified in the draft Environmental Impact Statement (DEIS) since they appear to be inconsistent with respect to the percent of SWUs/enrichment services provided by domestic enrichment service, i.e., USEC.

2. Page 1-6, line 28 - The phrase "All the issues that have identified by the NRC..." should be revised to "All the issues that have been identified by the NRC..." *Comment #048-2*

3. Pages 1-14 and 1-15, Table 1-3 - This table should be updated with information provided in the National Enrichment Facility (NEF) Environmental Report (ER) Table 1.3-1, Revision 2, dated July 2004. In particular, it should be noted that the New Mexico Air Quality Bureau has determined that the NEF will not need a construction or operating air permit. *Comment #048-3*

   Additionally, in Table 1-3, on page 1-15, in line 10, although the NEF will need a waste activity Environmental Protection Agency (EPA) ID number, it is not due to depleted uranium hexafluoride (DUF_6), but because of storage and use other chemicals. *Comment #048-4*

4. Page 2-10, line 21 - The Uranium Byproduct Cylinders (UBC) Storage Pad Stormwater Retention Basin is stated as receiving discharges from two sources, UBC Storage Pad stormwater runoff and cooling tower blowdown discharges. However, a third source exists and should be added, i.e., heating boiler blowdown discharges. *Comment #048-5*

5. Page 2-14, line 23 - The specified water requirements of the NEF reflect all water requirements, not just potable water requirements. Therefore, the phrase "potable water requirements" should be revised to "water requirements." *Comment #048-6*

6. Page 2-14, lines 29 to 31 - A discussion of natural gas supply to the NEF is provided. This discussion identifies an existing gas pipeline that is owned by the Sid Richardson Energy Services Company as the pipeline that would supply natural gas to the facility. This pipeline carries "sour" gas and would not be used to supply natural gas to the NEF. As reflected in NEF ER Section 4.1.2, a separate pipeline will be provided to supply natural gas to the NEF. This separate pipeline will be *Comment #048-7*

designed and located such that the existing analysis provided in the Natural Gas Pipeline Hazard Risk Determination Calculation (i.e., Framatome-ANP Document No. 32-2400572-02 which was previously submitted to the NRC in letter NEF#04-023 dated June 9, 2004) remains bounding.

7. Page 2-16, lines 21 and line 22 - Production of DUF_6 is stated to increase from 748 metric tons (825 tons) to 7,800 metric tons (8,600 tons) per year. The initial value of "748" metric tons is incorrect and should be "825" metric tons, i.e., 66 - 48Y cylinders with 12,500 kg of DUF_6 per cylinder. The value of 66 cylinders of DUF_6 is consistent with Table 2-5 on page 2-17 of the draft Environmental Impact Statement and the response to NRC Request for Additional Information (RAI) 2-4A which was previously submitted to the NRC in letter NEF#04-019 dated May 20, 2004. Due to this change, "(825 tons)" should also be revised to "(909 tons)." *Comment #048-8*

8. Page 2-17, line 2 - The title of Table 2-5 is currently "Maximum and Anticipated Yearly Production of DUF_6 over 30-Year License." This title may not accurately reflect the values given since the information provided in this table under the heading "Maximum" is based on a nominal 30-year operating period (i.e., the facility operates with all available equipment up to the 30-year time limit) and the information provided under the heading "Anticipated" is based on a 30-year license (i.e., the facility is gradually retired so that the operating license can be terminated by the end of the 30-year time limit). *Comment #048-9*

9. Page 2-17, lines 21 through 23 - The information under the heading "Anticipated" should be deleted from these lines to be more consistent with a 30-year license period and the response to NRC RAI 2-4A which was previously submitted to the NRC in letter NEF#04-019 dated May 20, 2004. *Comment #048-10*

10. Page 2-20, Figure 2-10 - The mass of "Sludge" shown in the Radioactive Liquid Waste Streams portion of the figure should be revised from "410 kg (904 lb)" to "400 kg (882 lb)" to be consistent with NEF Safety Analysis Report (SAR) Table 1.1-2 and ER Table 3.12-1. *Comment #048-11*

11. Page 2-20, Figure 2-10 - The mass of uranium from the "Personnel Hand Wash & Shower" shown in the Non-Radioactive Liquid Waste Streams portion of the figure should be revised from "0 kg U (0.44 lb U)" to "0 kg U (0 lb U)" to be consistent with NEF SAR Table 1.1-3 and ER Table 3.12-4. *Comment #048-12*

12. Page 2-21, line 17 - A discussion of the material to be used to exclude waterfowl from the Treated Effluent Evaporative Basin is provided and indicates that it would be "surface netting or other similar material." This should be revised to "surface netting or other suitable material" to be consistent with the ER since NEF may use other material to exclude waterfowl as recommended by the New Mexico Environment Department. *Comment #048-13*

13. Page 2-21, lines 23 and 24 - It is stated that runoff and stormwater from the UBC Storage Pad would be routed to a lined basin for evaporation. The sentence should be clarified to specify the basin that would receive this runoff and stormwater from the UBC Storage Pad, i.e., the UBC Storage Pad Stormwater Retention Basin (Item 13 on Figure 2-4). *Comment #048-14*

14. Page 2-21, lines 25 and 26 - A discussion of the NEF septic systems is provided. However, this section is titled "Stormwater Retention and Detention Basins." The septic systems are not considered stormwater retention or detention basins. Therefore, it is suggested that the discussion of the NEF septic systems be included in a separate section titled "Septic Systems." *Comment #048-15*

15. Page 2-22, lines 13 through 24 - A discussion of the Technical Services Building (TSB) Gaseous Effluent Vent System (GEVS) is provided under the section titled "Gaseous Effluent Vent System." However, as reflected in NEF Integrated Safety Analysis (ISA) Summary Section 3.4.9.1 and ER Section 4.12, the NEF design also includes a separate GEVS for the Separations Building. The Separations Building GEVS should also be discussed in this section of the Environmental Impact Statement for the NEF. *Comment #048-16*

16. Page 2-23, lines 4 through 8 - A listing of non-radioactive gaseous effluents and associated quantities are provided. However, hydrogen fluoride has not been included. The hydrogen fluoride gaseous effluent annual release quantity should be included, i.e., 1.0 kg (2.2 lbs) of hydrogen fluoride per year, consistent with NEF ER Section 4.6.2.1. *Comment #048-17*

17. Page 2-23, lines 12 and 13 - This sentence states that the boilers are permitted for operation as non-Title V sources under 40 CFR Part 61. The status of air quality requirements for the proposed NEF has changed as reflected in Revision 2 of NEF ER Section 1.3.2. Specifically, by letter dated May 27, 2004, the New Mexico Air Quality Board (AQB) acknowledged receipt of the Notice of Intent (NOI) application and notified LES that the application will serve as the NOI in accordance with 20.2.73 NMAC. The AQB also notified LES its determination that an air quality permit under 20.2.72 NMAC is not required and that New Source Performance Standards (NSPS) and National Emissions Standards for Hazardous Air Pollutants (NESHAPS) do not apply to the NEF as well. Lastly, the AQB stated that operation of the two emergency diesel generators and surface coating activities are exempt from permitting requirements, provided all requirements specified in 20.2.72.202 B (3) and 20.2.72.202 B (6) NMAC, respectively, are met. This section of the draft Environmental Impact Statement should be revised accordingly. *Comment #048-18*

18. Page 2-25, lines 32 through 38, Table 2-6 - The radioactive waste disposal volumes from dismantling activities are provided. However, this table only includes the radioactive waste from the Separations Building. For consistency with NEF SAR Table 10.1-10, DEIS Table 2-6 should also include the 83 cubic meters of miscellaneous low level radioactive waste resulting from other NEF buildings. *Comment #048-19*

19. Page 2-33, line 44 - A comparison to the American Centrifuge Plant efficiency and cost is provided. However, it is not clear what plant design is being compared to the American Centrifuge Plant. Therefore, it is recommended that phrase "as compared to a gaseous diffusion plant" be added to the end of line 44. *Comment #048-20*

20. Page 2-42, line 27 - The phrase "Gas centrifuge and liquid thermal diffusion technology..." should be revised to "Gas diffusion and liquid thermal diffusion technology..." *Comment #048-21*

LES Comments Regarding Draft Report
NUREG-1790, Environmental Impact Statement for the
Proposed National Enrichment Facility in Lea County, New Mexico

21. Page 2-44, lines 38 and 39 - This bulleted item should be revised from "The beneficial economic impacts of the proposed NEF on the local communities which have determined will be MODERATE" should be revised to "The beneficial economic impacts of the proposed NEF on the local communities which have been determined to be MODERATE." *Comment #048-22*

22. Page 2-55, under the heading "Proposed Action:" - The last sentence appears to be incomplete, i.e., the remainder of the sentence or sentences appears to be truncated. *Comment #048-23*

23. Page 2-56, under the heading "Proposed Action:" - The last sentence appears to be incomplete, i.e., the remainder of the sentence or sentences appears to be truncated. *Comment #048-24*

24. Page 3-3, line 35 - The phrase "U.S. Nuclear Regulatory (NRC)" should be revised to "U.S. Nuclear Regulatory Commission (NRC)." *Comment #048-25*

25. Page 3-8, line 39 - In New Mexico, "U.S. Highway 176" is referred to as "New Mexico State Highway 234." *Comment #048-26*

26. Page 3-11, line 44 - The word "condensations" should be "condensation." *Comment #048-27*

27. Page 3-17, line 30 - "Figure 3-11" should be "Figure 3-12." *Comment #048-28*

28. Page 3-17, line 33 - "Figure 3-12" should be "Figure 3-11." *Comment #048-29*

29. Page 3-22, Figure 3-13 - The intent of the figure legend "Number of Pollutants" should be clarified. *Comment #048-30*

30. Page 3-28, Figure 3-17 - The abbreviation "Gyp" is used in this figure and needs to be defined in the same manner as the other abbreviations used in the figure. *Comment #048-31*

31. Page 3-43, lines 23 and 24 - A listing of the ecological field surveys performed at the NEF site is provided. This listing should be updated to reflect the surveys conducted in October 2003 (Sias, 2003) and July 2004 (Sias, 2004). The reports of these surveys are currently included in the references for this section on page 3-76. *Comment #048-32*

32. Page 3-50, line 11 - References to ecological studies performed at the NEF site are provided. These references should be updated to reflect the reference "Sias, 2003." This reference is currently included in the references for this section on page 3-76. *Comment #048-33*

33. Page 3-52, line 48 - The housing vacancy in Texas should be "9.4" percent instead of "9" percent. From the 2000 census data, the total housing units in Texas is 8,157,575 with 7,393,354 units occupied. *Comment #048-34*

34. Page 3-59, lines 26 through 28 - The area for impact assessment for environmental justice was expanded beyond the 6.4-km (4-mi) radius to an 80-km (50-mi) radius. This expansion, while not precluded, goes beyond the minimum recommended area for a site in a rural area provided in NUREG-1748, Appendix C, and the NRC Policy *Comment #048-35*