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Date: 3/18/04 12:23PM
Subject: Comments on scoping process for LES EIS

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To whom it may concern:

Attached are the comments of Nuclear Information and Resource Service (NIRS) on the scoping process for the Environmental Impact Statement for the proposed Louisiana Energy Services uranium enrichment plant in Eunice, New Mexico. Please confirm that you have received these comments. We will also today submit via fax.

Thank you.

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Rules and Directives
Plenary
Meeting

Memphite = ADM-013

F-R.I.D.S = ADM-03
Cdd = T. Johnson (TJ)
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Nuclear Information and Resource Service

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March 18, 2004

Chief, Rules and Directives Branch
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Mail Stop T-6-D-59
U.S. Nuclear Regulatory Commission
Washington, D.C., 20555-0001
by email to: LES_EIS@nrc.gov.

Pursuant to a Federal Register notice by the U.S. Nuclear Regulatory Commission (“NRC” or “Commission”), Federal Register: February 4, 2004 (Volume 69, Number 23), Nuclear Information and Resource Service submits the following comments on the EIS for Urenco’s proposed Louisiana Energy Services uranium enrichment plant at Eunice, New Mexico.

The purpose of the National Environmental Policy Act (“NEPA”), 42 U.S.C. § 4321 et seq., is to promote efforts to prevent or eliminate damage to the environment and biosphere and stimulate public health, as well as enrich the understanding of the workings of ecological systems and natural resources. NEPA requires the preparation of an EIS for all major federal actions having a significant effect on the quality of the human environment. 42 U.S.C. § 4332. The proposed construction of the National Enrichment Facility by Urenco and its Louisiana Energy Services subsidiary clearly constitutes a major federal action under NEPA.

The President’s Council on Environmental Quality (“CEQ”) describes an EIS as an “action forcing device,” whose purposes are to provide “full and fair discussion of significant environmental impacts” and to “inform decision makers and the public of the reasonable alternatives which would avoid or minimize adverse impacts or enhance the quality of the environment.” 40 C.F.R. § 1502.1. These impacts and alternatives must be addressed *before* the action is taken, “rather than justifying decisions already made.” 40 C.F.R. § 1502.2(g).

Section 102(2)(c) further compels the federal agency to include in every report on proposals significantly affecting the quality of the environment a “detailed statement.” The EIS is therefore intended to be a full public disclosure document akin to that required by securities laws in connection with new public offerings of stocks and bonds.

A. Environmental Impacts

The range of impacts that must be considered in an EIS include “reasonably foreseeable” impacts which have “catastrophic consequences, even if their probability of occurrence is low.” 40

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C.F.R. § 1502.22(b)(1). The NRC may avoid discussion of only those environmental impacts that are “remote and speculative.” *Limerick Ecology Action v. NRC*, 869 F.2d 719, 745 (3rd Cir. 1989), citing *Vermont Yankee Nuclear Power Corp. v. Natural Resources Defense Council, Inc.*, 435 U.S. 519, 551 (1978).

The EIS for Urenco’s proposed Louisiana Energy Services uranium enrichment plant is therefore required to address all of the following environmental impacts, including but not limited to:

1. All impacts on the water levels in the Ogallala Aquifer as well as for the cities of Hobbs and Eunice arising from the plant’s proposed use of cooling water from municipal water supplies that draw upon the Ogallala Aquifer.
2. All impacts on the public health and environment arising out of the increase in routine and accidental radioactive emissions to the air and to the water as the result of the operation of Urenco’s proposed Louisiana Energy Services uranium enrichment plant. The analysis should consider work by Dr. John Gofman and numerous other scientists showing that low-level radiation, at levels considered to be safe for medical use, is a significant contributor to deaths from heart disease and cancer. See, for example, *Radiation from Medical Procedures in the Pathogenesis of Cancer and Ischemic Heart Disease* (Committee for Nuclear Responsibility: 1999).
3. As LES does not have a meaningful or realistic UF6 disposal strategy, the EIS should consider any and all environmental impacts of the permanent storage at the proposed LES site of the full inventory of UF6 radioactive/hazardous waste that would be generated by operation of the facility over its lifetime.

The EIS should examine the veracity of this statement by LES: “*There will be no onsite disposal of waste at the NEF. Waste will be stored in designated areas of the plant, until an administrative limit is reached. When the administrative limit reached, the waste will then be shipped offsite to a licensed disposal facility.*” (NEF Environmental Report, December 2003, Page 5.2.9) There are currently no facilities available in the United States for disposal of the massive quantities of UF6 waste the LES plant would generate, thus, the statement is disingenuous at best unless the “administrative limit” referred to covers all waste to be generated by LES. This calls into question LES’ ethical character and fitness to operate a nuclear facility in the United States. The EIS should define the “administrative limit” referred to in this paragraph, since it does not appear that LES’ application does that.

Because LES/Urenco has publicly asserted the possibility that Cogema or another firm could build a facility to convert LES’ waste UF6 to U3O8 for ultimate disposal, perhaps even at the same site as LES or nearby, the EIS should fully examine all additional environmental, radiological and chemical impacts from construction and operation of such a facility, including additional impacts if the U3O8 were stored at the nearby Andrews County, Texas waste site, and including any and all additional impacts from accidents, fires, natural gas pipeline explosion, natural disaster, etc.

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4. All impacts on public health and safety and the environment arising from a severe accident, including the impacts of the accident itself, and the impacts of any emergency response measures such as relocation of the population.

Specifically,

a) The EIS should consider potential worst-case accident consequences from fire and explosion relating to the rupture/ignition of the natural gas pipeline on Route 234 directly across the street from the proposed LES site.

b) The EIS should consider the worst-case accident consequences of rupture of multiple UF6 casks as a result of fire, earthquake, terrorism, sabotage or other natural or manmade cause. The current LES license application only considers rupture of one cask; multiple cask ruptures are foreseeable events.

c) The EIS should consider worst-case accident scenarios involving the high-speed collision of a track carrying a full UF6 cask with a truck carrying gasoline or other highly flammable material on Route 234 near Eunice.

5. The EIS should consider any and all environmental consequences related to the relocation of the CO2 pipe currently located on the proposed LES site.

6. The EIS should examine the issue of quail and other wildlife, that may be subject to hunting and human ingestion, drinking uranium contaminated water from the LES radioactive water holding pond.

7. The EIS should examine the blatant discrepancy between the Environmental Report's unexplained statement (NEF Environmental Report, December 2003, Page 2.2.1) that the Eunice site was LES' second choice, behind another New Mexico site, while LES first tried to site its proposed plant at its alleged fourth site choice, in Hartsville, Tennessee, and only left that site when it became clear the company could not obtain the necessary permits because of opposition by local public officials.

B. Alternatives

NEPA also requires consideration of a range of reasonable alternatives and their impacts, including the no action alternative. 40 C.F.R. § 1502.14. In fact, the discussion of alternatives is the "heart" of an EIS. The range of alternatives that must be considered is governed by a rule of reasonableness. *Natural Resources Defense Council v. Morton*, 458 F.2d 827, 834, 836-37 (D.C. Cir. 1972).

The environmental impacts of such alternatives that need to be explored and objectively evaluated include whether effects on the environment would be reduced if Ureco did not build

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the proposed LES uranium enrichment plant and nuclear reactor operators continued buying uranium enrichment services from the several already existing suppliers (including Urenco itself, which is also seeking to increase its enrichment capacity in Europe), and which already have contributed to, at times, a 100% and more overcapacity of uranium enrichment services.

C. Environmental Justice

The EIS should thoroughly examine environmental justice issues, including the racial makeup of the area around LES, within 5 miles and 20 miles of the proposed site; the economic makeup of the area; the expected racial composition of the workforce; whether any claim to the land is held by the Mescalero Apache tribe or any other Native American tribe; whether the land is sacred to any Native American tribe whether or not a claim is held.

D. National Security

The EIS should thoroughly examine all impacts arising from increased security risks and tasks associated with the construction and operation of Urenco's proposed LES uranium enrichment plant given the President's and federal government's acknowledgement that threats to nuclear facilities by acts of terrorism can be delivered in part or in combination from the air, the water and by land.

Given Urenco's historic inability to secure its highly-classified centrifuge design information, the EIS should consider global consequences of the further proliferation of Urenco technology. This is warranted because at least three nations—Pakistan, Iraq and Iran—have obtained Urenco blueprints and/or other technology. At least two other nations, Libya and North Korea, may have obtained this technology. Urenco itself exacerbated the leaks of its technology by training Iraqi welders in the delicate techniques of centrifuge welding in 1990 ("From 1989-90, 22 Iraqis—among them centrifuge-design experts—spent 43 weeks in a Siemens training program for welding technicians at Urenco's uranium enrichment plant in Gronau. The Iraqi engineers may have been privy to design information regarding the piping systems for the centrifuge cascades." *Non-Proliferation Review*, Fall 1996, page 128). This examination should include the impact of non-nuclear nations and independent organizations acquiring nuclear weapons technology and detonating nuclear weapons either in the U.S. or abroad.

The EIS should consider whether Urenco's desire for profits outweighs the need to adhere to U.S. national security policy that actively discourages the proliferation of nuclear technology and the construction of new uranium enrichment plants worldwide; for example U.S. efforts, including waging war, to prevent construction of such technology in Iraq, Iran, and Libya.

The EIS should consider whether Urenco's desire for profits outweighs or interferes with U.S. national security policy of downblending highly-enriched uranium from Russia as a means of preventing proliferation of this key component of nuclear weapons production and detonation.

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The EIS should address the recommendation of the Stockholm International Peace Research Institute, which, in a prescient book warning of nuclear weapons proliferation as a result of centrifuge uranium enrichment technology, states, "Unfortunately, the centrifuge cat is already partially out of the bag, and a number of operating facilities already exist. Preferably, these facilities should be shut down and dismantled....If it should prove impractical or impossible to shut down the centrifuge plants, then the internationalized centrifuge facilities should be managed in such a way as to prevent the further dissemination of this process....Eventually, the objective should be to phase out the gas centrifuge technique for uranium enrichment." (*Uranium Enrichment and Nuclear Weapon Proliferation*, Alan Krass, Peter Boskma, Boelie Elzen, Wim A. Smit, Stockholm International Peace Research Institute, International Publications Service, Taylor & Francis, Inc. New York, 1983).

Sincerely,

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