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9/17/04
69 FR 56104

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>>

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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.

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:

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.

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.

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

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.

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.

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.

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