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SOUTHWEST RESEARCH AND INFORMATION CENTER

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January 7, 2005

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

9/17/04
69FR 56104
382

RE: Docket No. 70-3103
DEIS Comments

Dear People,

Southwest Research and Information Center (SRIC) is a private nonprofit, educational organization based in Albuquerque, New Mexico, that has been involved in issues related to uranium development in New Mexico for decades. As a result of its more than 30 years of work, including analyzing and experiencing the enormous and continuing extremely negative impacts of uranium mining and milling on people's health and the water, soil, air, and spiritual environment in New Mexico, SRIC has great interest in the proposed LES Gas Centrifuge Uranium Enrichment Facility.

SRIC submitted scoping comments for NRC's environmental impact statement (EIS) of the LES plant. SRIC submits the following comments related to the original DEIS and the "redacted" DEIS, which are grossly legally and technically deficient.

1. The Draft Environmental Impact Statement (DEIS) is legally insufficient; a supplemental DEIS must be prepared and made available for at least 45 days of public comment.

Under NEPA caselaw, it is well established that in an EIS, the agency must "take a hard look at the environmental consequences before taking a major action." *Baltimore Gas & Electric Co. v. Natural Resources Defense Council, Inc.*, 462 U.S. 87, 97 (1983), citing *Kleppe v. Sierra Club*, 427 U.S. 390, 410, n. 21 (1976).

It [The EIS] ensures that the agency, in reaching its decision, will have available and will carefully consider detailed information concerning significant environmental impacts; it also guarantees that the relevant information will be made available to the larger audience that may also play a role in both the decisionmaking process and the implementation of that decision. *Robertson v. Methow Valley Citizens Council*, 487 U.S. 332, 349 (1989).

SISP Review Complete

E-RIDS = ADM-03

Call = A. M. Ford (AHB1)

T. Johnson (TJS)

Template = ADM-013

Publication of an EIS, both in draft and final form, also serves a larger informational role. It gives the public the assurance that the agency "has indeed considered environmental concerns in its decisionmaking process," *Baltimore Gas & Electric Co., supra*, at 97, and perhaps more significantly, provides a springboard for public comment, see L. Caldwell, Science and the National Environmental Policy Act 72 (1982). *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 349 (1989).

Certainly, any adequate DEIS must include a "hard look" analysis of public and occupational health impacts from accidents during operations at the enrichment plant. Yet, the "redacted" DEIS has no such analysis. Thus, the public does not have the required information on such impacts and cannot appropriately comment except to point out that fatal deficiency. A supplemental DEIS must be issued to correct that fatal flaw.

Any adequate DEIS must have a "hard look" analysis of the impacts of transportation accidents. Yet the "redacted" DEIS has no such analysis. Thus, the public does not have the required information on such impacts and cannot appropriately comment except to point out that fatal deficiency. A supplemental DEIS must be issued to correct that fatal flaw.

Any adequate DEIS must include a "hard look" analysis of the impacts of the nearby natural gas and CO₂ pipelines. Yet the "redacted" DEIS has no such analysis, although it briefly mentions that the site has "an underground carbon dioxide (CO₂) pipeline (p. 2-2). The "redacted" DEIS has even eliminated several figures that show the existing nearby pipelines, thus leaving the totally inaccurate implication that no such pipelines exist and that there is no hazard from such pipelines. Thus, the public does not have the required information on such impacts and cannot appropriately comment except to point out that fatal deficiency. A supplemental DEIS must be issued to correct that fatal flaw.

Those and other deficiencies are especially egregious since the issues were identified in SRIC's scoping comments (and perhaps by other commentors). In its Notice of Intent, NRC committed to analyzing "[p]otential public and occupational consequences from construction, routine operation, transportation, and credible accident scenarios (including natural events)." 69 *Federal Register* 5375 (February 4, 2004). On page 18 of the Scoping Summary Report (DEIS, Appendix A), the NRC committed: "The draft EIS will analyze the potential environmental impacts resulting from credible accidents at the NEF." The "redacted" DEIS does not meet those commitments or the legal requirements. Thus, the public is misled into thinking that the environmental impacts of credible accidents are analyzed in the DEIS, when, in fact, no such analysis is provided.

The public cannot even know which DEIS it is commenting on – the original DEIS issued in September 2004 or the "redacted DEIS" issued in December 2004. SRIC has asked that the following matters be made public in an email of December 29, 2004:

1. The criteria used to remove "potentially sensitive information" (the phrase used in the December 21 *Federal Register* notice). No criteria or rationale is included in the "redacted" DEIS. The public should be able to comment on the criteria in commenting on the DEIS.
2. What is the status of the September 2004 DEIS? The "redacted" version has much less information and analysis than the September 2004 version that it effectively replaces..
3. Will NRC make available to the public all of the comments received on the DEIS, including those comments related to "redacted" portions of the DEIS? If not all public comments will be made available, what is NRC's legal authority to withhold such comments?
4. How will NRC respond to comments on the DEIS related to "redacted" portions? For example, are comments related to "potentially sensitive information" deemed unavailable to the public or outside of the scope of the DEIS?

Anna Bradford of the NRC called Don Hancock on Tuesday, January 4, 2005 in response to those requests. But she provided no response to the requests other than to say that the comment period will not be extended beyond January 7, 2005. SRIC reiterates its objections to the illegally and improperly short 14-day comment period on the "redacted" DEIS and the less than 45-day comment period when sources were available on the original DEIS.

NRC should answer those questions in releasing a supplemental DEIS for public comment, as the public should have an opportunity to comment on NRC's rationale for "redacting." Under NRC's rules, a minimum of a 45-day comment period must be provided on the DEIS and any supplemental DEIS. 10 CFR 51.73.

Further, as will be discussed below, the original DEIS also does not meet the requirements for an adequate DEIS. Once again, a supplemental DEIS must be released for public comment.

2. The "redacted" DEIS is not a legally or technically adequate DEIS, and there is no adequate basis given for the redactions.

Many pages of the original DEIS have been "redacted." According to the "redacted" DEIS, the portions were eliminated "under 10 CFR 2.390." However, that regulation makes no mention of NEPA documents, so the NRC has not provided an adequate basis for removal of portions of the DEIS based on NEPA. NRC should make its screening criteria available with the "redacted" DEIS so that the public can understand the basis for removals and comment on both the criteria and whether specific redactions are warranted. While Tim Johnson of the NRC staff said in a telephone conversation with Don Hancock on December 29, 2004 that the basis was subsection (d) of that regulation, that provision in fact does not apply to much of the material that has been removed from the DEIS. For example, how is an earthquake accident analysis related to "commercial or financial information" under 10 CFR 2.390(d)?

There is nothing in NRC's own NEPA regulations (10 CFR 51) that allow for having two DEIS's on the same facility, nor for "redacting" a DEIS in the way that it has been done.

In releasing a supplemental DEIS, the NRC should describe the specific basis for any "redactions" or failures to include required environmental analyses. It should also describe any other situations in which it has released two versions of a DEIS for public comment at the same time, since SRIC believes that there is no other circumstance that such a situation has occurred. SRIC believes that there has been no adequate basis expressed to remove any of the information in the "redacted" DEIS.

3. The "redacted" DEIS does not discuss many significant environmental impacts and it does not include required mitigation measures to address potential impacts.

Again, caselaw is clear that mitigation measures must be included and that the public must be able to comment on them.

To be sure, one important ingredient of an EIS is the discussion of steps that can be taken to mitigate adverse environmental consequences. [footnote omitted] The requirement that an EIS contain a detailed discussion of possible mitigation measures flows both from the language of the Act and, more expressly, from CEQ's implementing regulations. Implicit in NEPA's demand that an agency prepare a detailed statement on "any adverse environmental effects which cannot be avoided should the proposal be implemented," *42 USC § 4332(C)(ii)*, is an understanding that the EIS will discuss the extent to which adverse effects can be avoided. See D. Mandelker, *NEPA Law and Litigation* § 10:38 (1984). More generally, omission of a reasonably complete discussion of possible mitigation measures would undermine the "action-forcing" function of NEPA. Without such a discussion, neither the agency nor other interested groups and individuals can properly evaluate the severity of the adverse effects. *Robertson* at 351-352.

Despite that legal requirement, the "redacted" DEIS has no mitigation discussion or analysis of some issues, and a very truncated analysis of those for which data have been removed.

4. The "redacted" DEIS is incomplete, inaccurate, and misleading, is technically and legally inadequate; a revised supplemental DEIS must be issued for public comment.

Among the many examples of incomplete, inaccurate, and misleading portions are the following::

* On page 2-4, the "redacted" DEIS states that the "[p]rincipal structures within the proposed NEF are shown in Figure 2-4." However, there is no Figure 2-4, as page 2-5 of the "redacted" DEIS states: "Figure removed under 10 CFR 2.390." Thus, the text of the document is inaccurate, and the public is not provided that drawing of the site. Without such a figure, among other things, the public cannot adequately comment on the layout of the facility, including the possibility of structures conflicting with each other in ways that could cause accidents, measures that could be taken to mitigate those accidents, and to identify overall environmental impacts of the facility layout.

* On page 2-6, the "redacted" DEIS states that the "UBC Storage Pad (Item 1 in Figure 2-4) would be constructed on the north side of the controlled area to store transportation cylinders and UBCs." Of course, as noted above, there is no Figure 2-4 Item 1. There is no figure showing the controlled area.

* Repeatedly on pages 2-6, 2-7, 2-8, 2-9, and 2-10, the "redacted" DEIS refers to "Items" on "Figure 2-4" even though no Figure 2-4 is included in the document. Thus, the "redacted" DEIS is repeatedly inaccurate in what it states.

* On page 2-9, the "redacted" DEIS states that a "high-pressure CO₂ pipeline crosses the site diagonally from the southeast to the northwest. It would be relocated during the site preparation for safety considerations." The "redacted" DEIS contains no figure showing the location of the existing high-pressure CO₂ pipeline nor does it include a figure showing where that pipeline will be relocated. Thus, the public cannot appropriately comment on whether the relocation should be done to a different location, whether the relocated pipeline would pose safety considerations, and whether it could be relocated to other locations to better mitigate against any adverse impacts.

* Page 2-9 of the "redacted" DEIS states that Figure 2-6 is "Construction Area for the Proposed NEF Site." However, there is no actual Figure 2-6, which is "removed under 10 CFR 2.390." Thus, the "redacted" DEIS is inaccurate, and the public is not able to appropriately comment on the construction area, and whether construction could be handled to reduce adverse environmental impacts and on mitigation measures that should be taken.

* On page 3-2, the "redacted" DEIS states that "[a]n underground natural gas pipeline is located along the southern property line (Figure 3-2)." However, there is no Figure 3-2, as it is "removed under 10 CFR 2.390." Thus, the "redacted" DEIS is inaccurate. The text could have referred to Figure 3-21, which does show the location of the natural gas pipeline, but it does not. Neither is there any explanation of why Figure 3-2 is removed and Figure 3-21 is not.

* On page 4-41, line 1, the "redacted" DEIS contains a sentence fragment that makes no sense. The first part of the sentence is on page 4-40 and has been "removed under 10 CFR 2.390." There is no explanation of why the first part of the sentence is removed and the last part is not. But the result is that the "redacted" DEIS is incomplete and inaccurate, and the public cannot comment other than to note that the sentence makes no sense and that required information is missing from the "redacted" DEIS.

* On page 4-57, the "redacted" DEIS states that Tables 4-17 and 4-18 show the environmental impacts from conversion of DUF6. However, there is no table 4-18, which is "removed under 10 CFR 2.390." Thus, the "redacted" DEIS is inaccurate, and the required information about the impacts of depleted uranium conversion is not included. The public is not provided that information or the data related to possible impacts from accidents at the facility.

* On page 6-1, the "redacted" DEIS states that figure 6-1 show the locations of proposed release locations for gaseous and liquid effluents. However, there is no figure 6-1, which has been "removed under 10 CFR 2.390." Thus, the "redacted" DEIS is inaccurate, and the public is not provided information on the location of effluent releases and cannot comment on such locations or the kind of mitigation that could occur by relocating or eliminating such locations.

* The table of contents of the "redacted" DEIS shows that from pages C-14 to C-29 there is discussion of public and occupational health impacts from accidents during operations.

However, 13 of those 16 pages are blank - "removed under 10 CFR 2.390." And major portions of the remaining three pages also are blank, "removed under 10 CFR 2.390." Thus, the "redacted" DEIS is inaccurate and contains no description of operational accidents, no analysis of the impacts of such accidents, no information about the methodology and used to generate any analysis. Thus, the public is able only to point out that the LES facility is obviously extremely dangerous, so much so that neither the kind of accidents - natural or human-made - nor their results can be shared with the public. The only legitimate conclusion for the public to make is that the facility is obviously too dangerous to be licensed in New Mexico or elsewhere.

5. The original DEIS and the "redacted" DEIS do not consider all reasonable alternatives, as required by NEPA.

Neither the original DEIS nor the "redacted" DEIS consider the alternative of limiting on-site storage of Uranium Byproduct Containers (UBC) to one year. As briefly mentioned in the DEIS on page 4-52, LES has committed to the State of New Mexico that UBCs will not be stored at the LES facility indefinitely. To ensure that waste does not remain stored on-site indefinitely, the DEIS should analyze the alternative of limiting the amount of UBC storage to one year of production. Since the DEIS states that full production would generate 7,800 metric tons per year or 627 UBCs per year (p. 2-27), the DEIS should consider the alternative of limiting the storage capacity of the UBC Storage Pad to 627 UBCs. Such an analysis should include environmental impacts, including occupational and public impacts, as well as impacts on the operations of the facility. Such impacts could be compared with similar impacts of 30-year storage capacity or other more limited storage options.

The DEIS should also consider the alternative of purchasing low-enriched uranium from foreign sources, an alternative which the DEIS and the "redacted" DEIS reject (p. 2-39). U.S. nuclear power plants have been purchasing low-enriched uranium from foreign sources for years, and the DEIS does not indicate that there have been any problems from that option. Indeed, such a practice will continue for many years, whether or not the LES facility is built. Moreover, the basis in the DEIS and the "redacted" DEIS for rejecting the alternative is the "national energy policy objective" from the Department of Energy (DOE) Report to Congress on Maintenance of Viable Domestic Uranium, Conversion and Enrichment Industries. However, that report does not support the development of the LES plant. That report's enrichment recommendation is to "build an advanced centrifuge demonstration plant at Portsmouth" and "to place the Portsmouth GDP on cold standby for a 5-year period (p. 21)." Those actions have been taken. No where does the report state a policy of LES building an enrichment plant in Eunice, New Mexico or any other location. Thus, the rationale used in the DEIS and "redacted" DEIS is spurious. The alternative of purchasing low-enriched uranium from foreign sources is reasonable and must be fully considered.

Moreover, it is not reasonable to state that allowing European companies (who own LES) to build LES in Eunice, New Mexico could ever be considered a "domestic" enrichment source. If NRC maintains that a domestic uranium enrichment plant is necessary, it should consider the proposed USEC centrifuge plant at Portsmouth as a reasonable alternative to LES.

An additional alternative that must be considered, which is not, and was included in SRIC's scoping comments is the alternative of storage of up to 15,727 UBCs beyond the operational lifetime of the facility. Since there remains no viable alternative storage or disposal location for the DUF₆ from the LES facility, this alternative and its environmental impacts must be fully analyzed. SRIC in no way endorses this alternative as a preferred one, because it poses unacceptable long-term risks to New Mexico, but it is a reasonable alternative, and neither the DEIS nor the "redacted" DEIS consider the alternative nor describe why it should not be considered.

Conversely, NRC's preferred alternative is not reasonable, even from an economic standpoint. The "market" does not consider LES to be needed, since without the \$1.8 billion Industrial Revenue Bond, the facility admittedly would not be built because there would be no financing. The supplemental DEIS must discuss how LES, which is not a financially viable alternative is NRC's preferred alternative.

7. The original DEIS and the "redacted" DEIS do not discuss important mitigation measures.

As noted in #3 above, the "redacted" DEIS is grossly deficient in not providing information on many issues and providing inadequate or no discussion of possible mitigation measures.

The original DEIS is also seriously deficient. For example, limiting UBC storage pad capacity to 627 UBC (one year's production) would mitigate concerns about long-term storage of UBCs at the LES facility after the end of the operating license and mitigate the environmental, occupational and public risks associated with UBC storage. Such a mitigation measure must be considered in the supplemental DEIS.

8. The discussion and analysis of waste conversion and disposal is totally inadequate in both the original DEIS and in the "redacted" DEIS.

New Mexico has the world's first geologic repository, the Waste Isolation Pilot Plant (WIPP), and the waste and contamination from the production of about 50% of the U.S. uranium supply over the past 60 years. As a result, New Mexicans are very concerned about any additional long-term storage or disposal sites. In addition to those strong citizen concerns, as already noted, Governor Richardson has stated that there can be no long-term waste storage or disposal in New Mexico. Neither the original nor the "redacted" DEIS discuss that historic role that New Mexico plays, another deficiency in the documents.

Although both the original DEIS and the "redacted" DEIS provide some discussion of conversion and disposal facilities, it is incomplete and totally inadequate. First, the DEIS states that NRC considers the DUF₆ from LES "to be a Class A low-level radioactive waste as defined in 10 CFR 61.55(a)(6) (p. 2-27)." Neither the DEIS nor the "redacted" DEIS provide any citation for that conclusion. SRIC does not agree with that conclusion. Importantly, SRIC notes that in neither this DEIS nor in any other NRC EIS has such a conclusion described and analyzed. SRIC believes that NRC must conduct a rulemaking, including an EIS process to support whatever decision that it makes about the classification of waste from LES and other similar facilities.

Second, in the original DEIS and the “redacted” DEIS, “it is assumed that the proposed conversion facility would use the same technology adapted for use by DOE in its conversion facilities (p. 2-28).” There is no adequate basis for such a conclusion. It has not been definitely established that the same technology would be used. Thus, the supplemental DEIS must consider the option that the LES conversion facility would use a different technology and fully describe the conversion technology to be used for LES waste as compared with that from the existing U.S. enrichment plants.

Third, the original DEIS and the “redacted” DEIS presume that a private sector conversion facility is possible (p. 2-29). There is no basis for such a conclusion as there has never been such a facility in the United States, as the original DEIS and the “redacted” DEIS acknowledge (p. 2-29). The only two conversion facilities being planned are DOE funded facilities at Paducah, Kentucky and Portsmouth, Ohio. Thus, it is not a reasonable alternative to consider that they would be a private sector conversion facility, especially since the financing of such a facility is not included in the cost estimates for LES. Therefore, the private sector conversion facility is, at best, a speculative option and should not be included in the supplemental DEIS unless LES make a firm financial guarantee to finance such a facility.

Fourth, the original DEIS and the “redacted” DEIS include as an option using the two planned DOE conversion facilities at Paducah, KY and Portsmouth, Ohio (p. 4-55). The Paducah facility is stated to operate until 2031 to convert the existing wastes there. Thus, it would take more than ten years to convert all of the LES wastes, if it could do so. Portsmouth would operate until 2024 and it would take until about 2040 to convert all of the LES wastes, if it could do so. In either case, UBCs could be left at LES well after the end of the 30-year license in 2036. This possibility and its impacts must be fully discussed in the supplemental DEIS, or the supplemental DEIS must describe in detail what would be required to avoid such a possibility. In addition, the supplemental DEIS must discuss the changes that would be needed in the conversion technology used at those two facilities in order for them to be able to handle LES’s wastes, which will be different in composition compared with those wastes to be converted from the existing enrichment plants. SRIC also understands that LES has not even determined what conversion technology could be used (and which technologies could not be used) for the LES wastes. All of these matters must be discussed in the supplemental DEIS.

Fifth, the original DEIS and the “redacted” DEIS include a private sector option that is not in the LES application – Option 1b, locating a conversion facility nearby. There is no basis to include such an option, and it must be eliminated from the supplemental DEIS. There is no proposal for such a facility. It has not been demonstrated that there is a suitable site for such a facility and neither the original DEIS nor the “redacted” DEIS include any such analysis.

Sixth, there is no viable disposal location for wastes from LES. As noted above, the classification of the waste is in doubt. The original DEIS and the “redacted” DEIS state that the current viable disposal facilities are Hanford or Envirocare. However, neither document discuss the fact that the State of Utah has prohibited 11(e)(2) waste from Fernald from coming to

Envirocare, so it is clearly possible that LES waste would not be allowed at Envirocare. Moreover, if, as noted above, there is no viable private conversion facility, Hanford also could not take the waste. Moreover, under the DOE conversion option, given the problems with the State of Utah regarding Envirocare, the only possible disposal option is the Nevada Test Site. But again, the State of Nevada has not allowed 11(e)(2) waste from Fernald, and it is not at all assured that it would accept LES waste. Indeed, neither the original DEIS nor the "redacted" DEIS include any documentation showing that either disposal facility and their affected states would accept waste from LES or that they even consider DUF₆ to be "low-level waste" and acceptable for disposal. Moreover, the original DEIS and the "redacted" DEIS dismiss the LES preferred disposal option in "an exhausted uranium mine (the Cotter Mines in Colorado)." (LES Environmental Report, Page 4.13-8). The stated rationale is that no existing mine is currently licensed (p. 2-31). Based on that rationale, clearly Barnwell and WCS must be excluded from consideration because they also are not currently licensed to take LES waste.

Seventh, the original DEIS and the "redacted" DEIS include Waste Control Specialists (WCS) as a possible disposal facility (p. 2-32). There is no basis to include that facility. It was not included in the LES application. It cannot now legally accept LES wastes. It does not meet the spirit or letter of the commitment to dispose of LES's wastes outside of New Mexico, since the site is immediately adjacent to New Mexico and its impacts would affect New Mexico. The supplemental DEIS should exclude the WCS facility for its discussion and analysis.

9. The original DEIS and the "redacted" DEIS discussion and analysis of water quantity issues are grossly inadequate.

As an initial matter, the original DEIS and the "redacted" DEIS provide contradictory information about the amount of water that LES would use. Page 4-15 states that LES could use up to "2.63 million cubic meters (695 million gallons) of the Ogallala waters." Page 4-24 states that LES "would use up to 2.6 million cubic meters (687 million gallons) of water from the Ogallala Aquifer during its operation." While for the NRC, 8 million gallons of water may be insignificant, it is very significant for semi-arid New Mexico, where the State of New Mexico has had to pay billions of dollars to Texas for compensation for Pecos River water not delivered to Texas and where people have been killed for much less water than that.

The estimates are not limits, so the supplemental DEIS should discuss the maximum amounts of water that LES could use and their impacts. The original DEIS and the "redacted" DEIS state that the peak water use requirements for LES are 2,040 cubic meters (539,000) gallons per day (pp. 2-14 and 4-14). Since LES must operate continuously, the peak use for an entire year (365 days) is 744,600 cubic meters (196.735 million gallons). Give that the original DEIS and the "redacted" DEIS state that LES would operate at full capacity for 14 years (p. 2-2), those 14 years at the peak use 10.424 million cubic meters (2.754 billion gallons) or four times as much as the original DEIS and the "redacted" DEIS estimate. Given the proposed 30-year license (and there would be water use during those additional 16 years), the supplemental DEIS must discuss and analyze the impacts of using at least four times more water than currently estimated.

Moreover, that peak use is about 40 percent of the total daily usage of Eunice (5,600 cubic meters per day - page 2-14). Since there is no current requirement that LES receive its water from both municipalities, the supplemental DEIS must analyze the impacts of the peak LES use on the Eunice system. Such impacts would be major and unsustainable, and the supplemental DEIS should so state.

The original DEIS and the “redacted” DEIS do not discuss the impacts on LES operations of a reduction or cutoff of water use for hours or days. The supplemental DEIS must consider that realistic possibility. Alternatively, the supplemental DEIS must state what measures will be taken to ensure a redundant water supply (onsite wells, in addition to the two proposed water pipelines) and its requirements (permitting, for example) and impacts.

10. The original DEIS and the “redacted” DEIS use a grossly inaccurate funding requirement for waste disposal.

New Mexico has great experience with operators of uranium facilities not providing adequate funding for decommissioning and waste disposal. The private uranium mines, mills, and tailings sites in the state did not provide adequate funding, so federal and state funding has been required for the decommissioning of those sites. And many of the sites are still not adequately remediated, decades after their use. That results in continuing water contamination, air contamination, and health effects of thousands of people that have not been funded. Thus, waste disposal is an important issue, not only that it be done outside of the State (as required by the governor), but also that it be adequately funded to ensure that it is paid for and done well, and does not constitute a future burden on federal and state taxpayers.

The original DEIS and the “redacted” DEIS use LES’s \$5.50 per kilogram of uranium funding estimate (p. 7-4). As an initial matter, the supplemental DEIS should use a more complete citation method, since the two sources are not easily available. While SRIC does have a copy of the LES Environmental Report, that document is three volumes and hundreds of pages. The basis for that \$5.50 per kilogram of uranium funding amount is not readily seen in that document, for example in Section 3.12 regarding waste management and in Section 7.4 Cost-Benefit analysis. The other source – June 4, 2004 letter from James Curtiss - is apparently not available, as SRIC has attempted without success to find it in the NRC online document sources.

SRIC’s understanding is that the \$5.50 per kilogram estimate is based on Urenco’s European experience, which is not applicable to LES. Among other things, that number does not include all costs of conversion and disposal. Additionally, European costs and regulatory requirements are different than in the U.S.

In the supplemental DEIS (not just in the Safety Evaluation Report as is stated on page 7-4), there must be a complete description and analysis of waste disposal costs. More realistic and higher cost (SRIC estimates that a doubling of the cost is likely) estimates must be used and justified in detail, so that the public can fully comment on the adequacy and reliability of those estimates and the funding mechanisms that will be required.

11. In addition to the inadequate and illegal "redacted" DEIS, other source documents are not available.

As noted in #4 above, the "redacted" DEIS is totally inadequate and does not provide required information to the public. As noted in #10 above, at least one important source document on waste disposal costs is unavailable. Many other documents cited as sources are not available to SRIC and other members of the public as there is no public document room in New Mexico and the electronic public document room has been unavailable for much of the comment period for the original DEIS and the "redacted" DEIS.

All documents used as sources must be available to the public for at least the required 45-day comment period on the supplemental DEIS.

12. The impacts of LES would not be "small to moderate," they are so major that the public cannot be appraised of the impacts.

The original DEIS and the "redacted" DEIS state repeatedly in Chapter 4 that the impacts of LES would be "SMALL" or "SMALL to MODERATE." Much of the discussion and analysis of important impacts – operational accidents and transportation – is totally missing and serious deficient in the "redacted" DEIS. Some of those instances have been noted above.

The original DEIS states that potential chemical consequences from severe railroad accidents for DUF6 is "adverse health effects" for 28,000 in urban areas, such as Albuquerque. That estimate is cited to the Paducah and Portsmouth EISs. SRIC believes that generic estimate is low. But it certainly is not specific to LES's waste and railway and meteorological conditions in New Mexico. SRIC, therefore, believes that they are underestimates. Nonetheless, 28,000 people suffering health effects in Albuquerque or any other urban area should not be considered "SMALL to MODERATE" (p. 4-40).

The original DEIS states that health effects from a hydraulic rupture of a UF₆ cylinder would be a 12,000 person-rem collective dose (p. 4-49). Again, the original DEIS considers that to pose "SMALL to MODERATE" impacts. Since that would be one of the largest nuclear releases in the history of New Mexico, the public and State of New Mexico would not consider it to be less than a MAJOR impact. (Even the original DEIS states that 7 latent cancer fatalities would have HIGH consequences.) The supplemental DEIS should compare a release of that amount with releases from other nuclear and uranium-related facilities within the state to provide a context for citizens as to the relative nature of such an accident.

The actual effect of any such accidents would be a strong public outcry to shut the facility down, even if that was not NRC's position at that time. The supplemental DEIS should consider not only the health effects, but also the economic impacts of such an accident, and compare that with other accidents that have occurred at licensed NRC facilities, including Three Mile Island-II.

Further, the cumulative effects of such accidents is not captured by the analysis provided. The supplemental DEIS should include an adequate cumulative effects analysis, including both

chemical and radioactive health effects, as well as economic and socioeconomic (including public perception) impacts.

Clearly, the LES facility is too dangerous to be built and operated in New Mexico or any other location, it is not needed, and it is not financially viable. The supplemental DEIS should reach the same conclusion.

Thank you for your publication of these comments and full consideration of all of these issues.

Sincerely,

A handwritten signature in cursive script, appearing to read "Don Hancock".

Don Hancock