

**From:** Timothy Johnson  
**To:** Marilyn.Snell@sierraclub.org  
**Date:** 2/2/05 9:12AM  
**Subject:** follow up re: LES license application

I have attached a response to your questions. Let me know if you need any further.

>>> <Marilyn.Snell@sierraclub.org> 01/25/05 09:33PM >>>

Dear Mr. Johnson,

I spoke to you several weeks ago by telephone regarding the proposed LES facility. I spoke to Sue Gagner (not sure of spelling) in Public Affairs today, who said I really needed to speak with you again, since she was unable to answer my questions. I am still trying to get an answer to the following question and I hope you can help me. In reviewing my notes of our earlier conversation, I fear that part of the problem was that I wasn't clear in what I was looking for. So, with apologies in advance for taking your time, I would like to try again:

In our last conversation you patiently tried to explain to me what type of requirements relating to nuclear security would need to be satisfied before the NRC would grant a license to LES. You explained the FOCI process, the facility clearance permit, and the manner in which LES would need to prove it had proper procedures in place for handling classified information.

When I spoke to Ms. Gagner, she said that the NRC is the final arbiter on license approval.

My question has to do with whether, with regard to LES, a more thorough national security review will be conducted by any other agency before final approval is (or is not) given. Will there be another level of inquiry with regard to Urenco? BNFL? etc? When I asked you earlier you said no, that the US doesn't regulate Urenco--so the answer to this may be a simple "no."

I just want to make sure:

- 1) NRC is the final arbiter on the LES license, correct?
- 2) There is no other federal agency that is looking into the permit as it relates to Urenco, BNFL, etc. Correct?
- 3) There is no other federal agency looking into the permit as it relates to proliferation considerations regarding the 1993 US/Russia Treaty on HEU (I know the NRC isn't, since it ruled the issue inadmissible). Correct?
- 4) There is no other federal agency looking into the permit as it relates to the recent call by the IAEA for a moratorium on the construction of uranium enrichment plants until new international security safeguards are in place. Correct?

I truly apologize for causing you headaches but as I try and find the answers to these questions I keep getting referred back to you. If you could help me, I would be grateful. I'm happy to discuss these questions by telephone but I thought I'd be less intrusive this time, so I tried the email route. In any event I look forward to hearing from you.

Sincerely,

Marilyn Berlin Snell

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1) NRC is the final arbiter on the LES license, correct?

Under the Atomic Energy Act (AEA) and the Energy Reorganization Act, the NRC has the responsibility for licensing the LES facility. No other agencies are responsible for licensing the public health and safety issues applicable to the hazards associated with radioactive materials. The State of New Mexico is responsible for issuing certain permits under its authorities for non-AEA hazards. The Draft Environmental Impact Statement, Section 1.5, has a complete list of licenses and permits required by the facility.

2) There is no other federal agency that is looking into the permit as it relates to Urenco, BNFL, etc. Correct?

NRC, with the assistance of the U.S. Department of Energy, is evaluating the Foreign Ownership, Control, and Influence (FOCI) issues applicable to LES obtaining a facility clearance for possession of classified information. To obtain a facility clearance, an applicant needs to demonstrate it can meet the requirements in 10 CFR Part 95, the same requirements applicable to any applicant that needs to possess classified information. Access to classified information by individual personnel is reviewed in accordance with 10 CFR Part 25.

A unique aspect of this review is that the classified information applicable to this facility is foreign classified information that is being provided to the U.S. under an agreement between the U.S., the United Kingdom, The Netherlands, and Germany. The United Kingdom, The Netherlands, and Germany are responsible for safeguarding their own classified information in accordance with their own government requirements.

3) There is no other federal agency looking into the permit as it relates to proliferation considerations regarding the 1993 US/Russia Treaty on HEU (I know the NRC isn't, since it ruled the issue inadmissible). Correct?

Other Federal agencies have addressed this issue. In a July 25, 2002, letter from the U.S. Department of Energy (DOE) to NRC, DOE expressed its support of the deployment of Urenco technology in a new U.S. commercial uranium enrichment facility. In addition, the U.S. government, through its agreement with The United Kingdom, The Netherlands, and Germany to transfer Urenco gas centrifuge technology to the U.S., supports the consideration of Urenco being a partner with a U.S. company for developing uranium enrichment facilities.

4) There is no other federal agency looking into the permit as it relates to the recent call by the IAEA for a moratorium on the construction of uranium enrichment plants until new international security safeguards are in place. Correct?

It is our understanding that IAEA Director General Mohamed ElBaradei proposed a five-year moratorium on construction of enrichment and reprocessing plants by countries that don't already have such facilities. As such, this recommendation would not apply to the U.S.