United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ecological Services
5353 Yellowstone Road – Suite 308
Cheyenne, Wyoming 82009

In Reply Refer To:
ES/61411/W.26 /WY10CPA0011

NOV 13 2009

Mr. Stephen J. Cohen
U.S. Nuclear Regulatory Commission
Uranium Recovery Licensing Branch
Washington, D.C. 20555-0001

Dear Mr. Cohen:

Thank you for your letter of October 19, 2009, requesting comments on a requested exemption that would allow the Lost Creek ISR, LLC (LCI) to commence certain activities prior to the U.S. Nuclear Regulatory Commission's (NRC's) completion of its environmental review under Title 10 of the Code of Federal Regulations, Part 51 (10 CFR 51) and the NRC's issuance of a Source Materials License for the Lost Creek uranium in situ recovery (ISR) facility in Sweetwater County, Wyoming, under 10 CFR 40. NRC's approval of the exemption would permit LCI to undertake the action listed below.

1. Leveling and surfacing of the area around the Plant and Maintenance Building
2. Construction of Maintenance Buildings
3. Install household septic systems for the Plant and Maintenance Buildings
4. Install fence around the Plant and Maintenance Building area
5. Upgrade Existing Road Access from the West to the Plant
6. Upgrade Existing Road Access from the East to the Plant
7. Install Fence for Early Wellfield Area
8. Install Power Line to the Plant and Maintenance Buildings and Drillers Shed
9. Construct a Drillers Shed and Staging Area

In a letter dated November 12, 2008, the U.S. Fish and Wildlife Service (Service) provided the NRC with information relevant to this project regarding (1) federally listed species, (2) migratory birds, (3) wetland and riparian areas, and (4) sensitive species. At this time, the Service would like to also provide information related to the proper construction of power lines for the protection of migratory birds in accordance with recommended practices of the Avian Powerline Interaction Committee (Enclosure). Protective measures for migratory birds are provided in accordance with the Migratory Bird Treaty Act (MBTA), 16 U.S.C. 703 and the Bald and Golden Eagle Protection Act (BGEPA), 16 U.S.C. 668.

We appreciate your efforts to ensure the conservation of Wyoming's fish and wildlife resources. If you have questions regarding this letter or your responsibilities under the Act, MBTA or BGEPA, please contact Alex Schubert at the letterhead address or phone (307) 772-2374, extension 238.

Sincerely,

Scott Hicks

for Brian T. Kelly
Field Supervisor
Wyoming Field Office

Enclosure (1)

cc: BLM, T&E Coordinator, Cheyenne, WY (T. Abbott)
WGFD, Non-game Coordinator, Lander, WY (B. Oakleaf)
WGFD, Statewide Habitat Protection Coordinator, Cheyenne, WY (M. Flanderka)

Enclosure

U.S. Fish and Wildlife Service Recommendations for Minimizing Bald Eagle Mortalities on Distribution Power Lines.

Power lines should be built, at a minimum, to standards identified in the *Suggested Practices for Raptor Protection on Power Lines--The State of the Art in 2006* (Avian Power Line Interaction Committee 2006) to minimize electrocution potential. The Service has the following more specific recommendations that reaffirm and compliment those presented in the Practices. The Nuclear Regulatory Commission should ensure that these additional standards, to minimize bald eagle mortalities associated with utility transmission lines, be incorporated into the stipulations for all project actions. It should be noted that these measures vary in their effectiveness to minimize mortality, and may be modified as they are tested in the field and laboratory. Local habitat conditions should be considered in their use. The following represents areas where bald eagle protection measures should be applied when designing/constructing new distribution lines or modifying existing facilities:

For new distribution lines and facilities

1. Bury distribution lines should be buried where feasible.
2. Use raptor-safe structures (e.g., with increased conductor-conductor spacing) that address adequate spacing for eagles (i.e., minimum of 60 inches).
3. Insulate the bushing conductor terminations and use covered jumper conductors.
4. Make jumper conductor installations (e.g. corner, tap structures, etc.) eagle safe by using covered jumpers or providing adequate separation.
5. Employ arrestor and cutout covers when necessary.
6. Avoid high avian use areas such as wetlands, prairie dog towns, and grouse leks.

For modification of existing facilities

1. Identifying and rectifying problem structures that include dead ends, tap or junction poles, transformers, reclosers and capacitor banks or other structures with less than 60 inches between conductors or a conductor and ground.
2. Cover exposed jumpers.
3. Cap pole top ground wires.
4. Maintain a sixty inch clearance between energized conductors and guy wires.
5. Install insulated bushing covers, covered jumpers, and cutout covers and arrestor covers, on transformers if necessary.
6. In areas where midspan collisions are a problem, install line-marking devices that have been proven effective. All transmission lines that span streams and rivers, should maintain proper spacing and have markers installed.

Reference

Avian Power Line Interaction Committee (APLIC). 2006. Suggested Practices for Avian Protection on Power Lines: The State of the Art in 2006. Edison Electric Institute, APLIC, and the California Energy Commission. Washington, D.C. and Sacramento, CA.