

March 15, 2010

Mr. Tom Clements  
Friends of the Earth  
1112 Florence Street  
Columbia, SC 29201

SUBJECT: REQUEST TO PREPARE NUCLEAR NONPROLIFERATION IMPACT  
ASSESSMENT FOR LASER ENRICHMENT TECHNOLOGY

Dear Mr. Clements:

I am responding to your letter dated January 20, 2010, in which you asked the U.S. Nuclear Regulatory Commission (NRC or Commission) to prepare a "nuclear nonproliferation impact assessment" for laser enrichment technology. The NRC, through its comprehensive domestic licensing review and approval process, addresses issues potentially affecting the safe and secure use of nuclear technology and materials at issue in your letter. The considerations include ensuring that 1) classified information, materials and technologies are protected in accordance with 10 CFR Part 95; 2) the applicant has a physical protection program and a material control and accounting program in accordance with 10 CFR Parts 73 and 74; and 3) the provisions of the "Agreement for Cooperation Between the United States of America and Australia Concerning Technology for the Separation of Isotopes of Uranium by Laser Excitation" are met. Through these mechanisms, NRC 1) limits the availability of special nuclear material (SNM) by controlling the creation of and access to SNM; 2) controls proliferation of sensitive technologies, both information and equipment, through physical protection, personnel security, information protection, and export controls, and 3) participates in international activities to control nuclear materials, technology, facilities and equipment.

The NRC considers a nuclear nonproliferation impact assessment to be outside the scope of the agency's statutory responsibilities. The Atomic Energy Act contains no requirement for such an assessment in the context of domestic licensing. Moreover, such an assessment is outside the scope of the agency's responsibilities under the National Environmental Policy Act ("NEPA"). The Commission stated with respect to the Louisiana Enrichment Services facility that NEPA "requires a reasonably close causal relationship between the [alleged] environmental effect and the alleged cause," but that nuclear nonproliferation issues "span a host of factors far removed from" and "far afield from our decision whether to license the facility. . . ." 62 NRC 721 at 724 (2005) (LES). Following LES, the Commission, in USEC Inc. (American Centrifuge Plant), reiterated that potential nuclear nonproliferation initiatives, which are "dependent upon the actions and decisions of the President, Congress, international organizations, and officials of other nations," are "issues of international policy unrelated to the NRC's licensing criteria . . . ." 63 NRC 451 at 463 (2006). Accordingly, for these reasons, the NRC is denying your request to prepare a nuclear nonproliferation impact assessment for laser enrichment technology. Nevertheless, we will continue to regulate the facility, material, and sensitive technology to ensure protection of the public and the environment, promotion of the common defense and security, and fulfillment of U.S. obligations for nonproliferation and international agreements.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records component of NRC's Agency-wide Documents Access and Management System (ADAMS). ADAMS is accessible through the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room).

If you have any further questions, please contact Mr. Timothy C. Johnson at 301-492-3121, or via email at [Timothy.Johnson@nrc.gov](mailto:Timothy.Johnson@nrc.gov).

Sincerely,

**/RA/**

Michael F. Weber, Director  
Office of Nuclear Material Safety  
and Safeguards

Docket No.: 70-7016

cc: William Szymanski/DOE	Bruce Shell/New Hanover County
Patricia Campbell/GEH	Marty Lawing/Brunswick County
Robert Brown/GEH	George Brown/Pender County
Tammy Orr/GEH	Bill Saffo/Wilmington
Mike Giles/CFC	Malissa Talbert/Wilmington
Jerald Head/GEH	Wanda Lagoe/NCOSH
David Springer/CFRW	Cameron Weaver/NCDENR
Stephen Rynas/NCDENR	Emily Hughes/USACE
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Lafayette Atkinson/NCOSH	Julie Olivier/GEH
Mathew Allen/GEH	

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