



United States Department of the Interior

OFFICE OF THE SECRETARY
Office of Environmental Policy and Compliance
Denver Federal Center, Building 67, Room 118
Post Office Box 25007 (D-108)
Denver, Colorado 80225-0007



January 28, 2010

9043.1
ER 09/1237

2/1/2010
ADB Beed

Michael T. Lesar, Chief
Rulemaking and Directives Branch
Mail Stop: TWB-05-B01M
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

12/11/09
THFR 65804 (6)

RE: Draft Environmental Impact Statement (EIS) for the **Lost Creek In-Situ Recovery Project in Sweetwater County, WY**; Supplement to the Generic Environmental Impact Statement for In-Situ Leach Uranium Milling Facilities

Dear Mr. Lesar:

The Department of the Interior has reviewed the subject environmental document, and provides the following comments.

GENERAL COMMENTS

Public Lands

The Bureau of Land Management (BLM) appreciates the opportunity to review and provide comment regarding the subject document. The Rawlins Field Office of the BLM has jurisdiction or authority with respect to most of the land that would be covered by the proposed Lost Creek uranium in-situ recovery (ISR) project. That office will be conducting its own review of a surface management plan of operation submitted pursuant to the 43 CFR 3809 regulations for the BLM administered lands within the project area, and will adopt by reference salient information submitted to and published by the Nuclear Regulatory Commission (NRC) in the matter of their licensing process.

The Wyoming State Office of BLM provided comments to the NRC regarding Draft Generic Environmental Impact Statement (EIS), NUREG-1910 in a letter dated November 7, 2008, and is designated as commenter 1173 in Appendix G of the final EIS, NUREG-1910. The roles and responsibilities of the NRC and BLM under different regulatory frameworks are duly recognized. Although the BLM provided comments on a preliminary draft of this EIS, they did not have adequate time or resources to dedicate to the review of this document and no additional comments are being submitted by the Wyoming BLM.

SOWSI Review Complete
Template = ADM-013

E-RIDS = ADM-03
Cell = A. Bjorgsen (9665)

The NRC did not recognize BLM as a formal NEPA cooperating agency for developing the environmental document for Lost Creek ISR. However, the BLM and NRC have since entered into an memorandum of understanding (MOU) (see January 8, 2010, *Federal Register* notice <http://edocket.access.gpo.gov/2010/pdf/2010-116.pdf>) to work closely together in review of uranium ISR projects in States where the NRC has primacy for licensing and the BLM has administrative responsibilities for surface management and-or minerals. The MOU will improve the interagency communications, facilitate the sharing of special expertise and information, and coordinate the preparation of studies, reports and environmental documents.

Mountain Plover

The U.S. Fish and Wildlife Service (USFWS) plans to reopen the comment period in April 2010, on the proposed rule to list the mountain plover as a threatened species (67 FR 72396, December 5, 2002). Following the comment period and USFWS' completion of the new finding, the mountain plover may be proposed for listing. Section 7(a)(4) of the Endangered Species Act (ESA), requires Federal agencies to confer with the USFWS on any action that is likely to jeopardize the continued existence of any species proposed for listing. Federal action agencies also may request a conference on any proposed action that may affect a species proposed for listing.

We encourage project planners to develop and implement protective measures should mountain plovers occur within project areas. Measures to protect the mountain plover from further decline may include: (1) avoidance of suitable habitat during the plover nesting season (April 10 through July 10), (2) prohibition of ground disturbing activities in prairie dog towns, and (3) prohibition of any permanent above ground structures that may provide perches for avian predators or deter plovers from using preferred habitat. Suitable habitat for nesting mountain plovers includes grasslands, mixed grassland areas and short-grass prairie, shrub-steppe, plains, alkali flats, agricultural lands, cultivated lands, sod farms, and prairie dog towns. We strongly encourage you to develop protective measures with an assurance of implementation should mountain plovers be found within the project areas.

Blowout Penstemon

The final EIS should identify blowout penstemon (*Penstemon haydenii*) as a federally endangered species that could occur in the project area. In addition, before NRC licensing occurs, the project area should be surveyed for presence of this species. Surveys should be conducted from mid-June to early-July when flowering occurs by knowledgeable botanists trained in conducting rare plant surveys. The USFWS does not maintain a list of "qualified" surveyors, but can refer those wishing to become familiar with the blowout penstemon to experts who can provide training/services.

Blowout penstemon is a perennial herb with stems less than 12 inches tall. The inflorescence is 2 to 6 inches long and has 6 to 10 compact whorls of milky-blue to pale lavender flowers. Blowout penstemon was listed as endangered on October 1, 1987. The plant's current known range in Wyoming consists of the Ferris dunes area in northwest Carbon County where the plant is restricted to two habitat types: steep, northwest facing slopes of active sand dunes with less

than 5 percent vegetative cover; and on north facing sandy slopes, on the lee side of active blowouts with 25 to 40 percent vegetative cover. Recent surveys have indicated that systematic surveys are warranted in all lower elevations (below 6,700 feet) in Wyoming where sand blowout features are located.

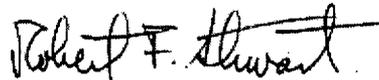
Blowouts are formed as strong winds deposit sands from the windward side of a dune to the leeward side and result in a sparsely vegetated crater-like depression. Associated vegetation includes blowout grass, thickspike wheatgrass, lemon scurfpea, Indian ricegrass, and western wheatgrass. Threats to the plant occur when sand dunes are removed or overly disturbed by vehicular traffic. Known populations in Wyoming are found between 6,680 and 7,440 feet (Fertig 2001). However, recent surveys by Blomquist and Heidel (June 2002) indicate that surveys are warranted in some lower elevations where active sand blowout features occur.

SPECIFIC COMMENTS

Page 3-42, Section 3.6.3 Protected Species: This section contains species descriptions for species listed as endangered, threatened, proposed for listing, designated by the BLM as sensitive species, and migratory birds. The section does not segregate the species descriptions according to their protected status and as such is difficult to follow. We recommend grouping the species descriptions according to their protected status. Species can be grouped under the following subtitles: threatened and endangered species, species proposed for listing, species designated by the BLM as sensitive species, and migratory birds.

We appreciate the opportunity to comment on the Draft EIS. If you have questions about BLM comments concerning public lands, please contact Mr. Pete Sokolosky of the BLM Wyoming State Office in Cheyenne at (307) 775-6261. If you have questions regarding comments on fish and wildlife resources, please contact Mr. Pete Ramirez in the USFWS Ecological Services Field Office in Cheyenne at (307) 772-2374, extension 236.

Sincerely,



Robert F. Stewart
Regional Environmental Officer