

July 14, 2010

Mr. Reid Nelson, Director  
Office of Federal Agency Programs  
Advisory Council on Historic Preservation  
Old Post Office Building  
1100 Pennsylvania Avenue, NW, Suite 803  
Washington, DC 20004

SUBJECT: SECTION 106 CONSULTATION, NOTIFICATION OF THE ISSUANCE OF, AND REQUEST FOR COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT FOR THE PROPOSED AREVA ENRICHMENT SERVICES LLC EAGLE ROCK ENRICHMENT FACILITY IN BONNEVILLE COUNTY, IDAHO

Dear Mr. Nelson:

The U.S. Nuclear Regulatory Commission (NRC) staff is reviewing an application submitted by AREVA Enrichment Services LLC (AES) for a license to construct, operate, and decommission a uranium enrichment facility near Idaho Falls in Bonneville County, Idaho. The proposed Eagle Rock Enrichment Facility (EREF), if licensed, would use a gas centrifuge process to enrich uranium-235 isotope found in natural uranium to concentrations up to 5 percent by weight. The enriched uranium would be used to manufacture nuclear fuel for commercial nuclear power reactors.

As part of the review of the application, the NRC has prepared a Draft Environmental Impact Statement (EIS) (NUREG-1945). The Draft EIS includes an analysis of relevant environmental issues, including potential impacts on historic and cultural resources, and documents the NRC staff's preliminary determination regarding the environmental impacts from the preconstruction (e.g., site preparation), construction, operation, and decommissioning of the proposed uranium enrichment facility. Many of the activities required to build a uranium enrichment facility do not fall within NRC's regulatory authority and, therefore, are not "construction" as defined by the NRC. Such activities are referred to as "preconstruction" activities in Title 10 of the *U.S. Code of Federal Regulations* (10CFR) 51.45(c). The proposed 161-kilovolt (kV) electrical transmission line required to provide power to the proposed EREF also falls under this category.

By letters dated June 17, 2009, and February 17, 2010, the NRC staff notified the Idaho State Historic Preservation Office (SHPO) that it will comply with its obligations under Section 106 of the *National Historic Preservation Act of 1966*, as amended (NHPA), using the process set forth in Title 36 of the *Code of Federal Regulations* (36 CFR) 800.8(c). Pursuant to 36 CFR 800.8(c), the NRC staff is using the preparation of the EIS required by the National Environmental Policy Act of 1969, as amended (NEPA), to comply with its obligations under Section 106 of the NHPA.

The NRC staff is using 36 CFR 800.8(c) in lieu of the procedures set forth in 36 CFR 800.3 through 36 CFR 800.6. The NRC staff conducted an environmental audit of the proposed EREF site in June 2009 and has reviewed historic and archaeological records. In letters dated July 29, 2009, and February 19, 2010, the NRC staff also contacted the Shoshone-Bannock Tribes, identified as having potential interest in the proposed undertaking. To date, the Shoshone-Bannock Tribes have not responded to our letters.

The NRC staff has determined that the Area of Potential Effect (APE) for the NHPA Section 106 review of the proposed EREF project site is the 240-hectare (592-acre) portion of the proposed site that would be directly affected by preconstruction, construction, and operations activities. Two archaeological surveys have been undertaken by an AES archaeological contractor for the proposed project site. The contractor directly examined 407 hectares (1005 acres) of the proposed AES property, within which the 240-hectare (592-acre) APE is included. The acreage surveyed included additional areas for expansion outside the presently proposed preconstruction, construction, and operations areas, which are no longer deemed necessary for the proposed project.

Also, the NRC staff has determined that the APE for the proposed 161-kV transmission line project is 202.3 hectares (500 acres) for the line itself. This is derived from the 22.12-kilometer (13.74-mile) proposed transmission line right-of-way (ROW) length and 45.72 meters (150 feet) on either side of the centerline (91.4-meter [300-foot] total width). In addition to that, there is the fenced area at the proposed modified Bonneville Substation, which is 1.3 hectares (3.1 acres), and the proposed new Twin Buttes Substation that will occupy a 2.1-hectare (5.2-acre) fenced area on the proposed EREF site itself. Portions of the proposed Twin Buttes Substation and of the proposed transmission line adjacent to the proposed EREF were surveyed previously as part of the survey for the main portion of the proposed EREF site. The ROW for the proposed transmission line has been also surveyed by an AES archaeological contractor for the presence of historic and cultural resources. The survey examined the 202.3-hectare (500-acre) APE.

In the context of NEPA, under which the Draft EIS has been prepared, the NRC staff's preliminary determination is that the cumulative impact on historical and archaeological resources from the preconstruction, construction, operation, and decommissioning of the proposed uranium enrichment facility at the EREF site would be moderate. The impacts would be moderate because: (1) although a National Register of Historic Places (NRHP)-eligible site, site MW004 (John Leopard Homestead), is located under the proposed footprints for the proposed EREF security fence and Twin Buttes electrical substation and would be destroyed by preconstruction activities, AES will conduct mitigation of site MW004 through professional excavation as discussed in the treatment plan that AES has prepared for that site; and (2) other examples of this particular homestead site type are found in the region, outside the EREF property. Regarding the proposed 161-kV transmission line project, no historic and cultural resources were identified in the archaeological surveys conducted for this project. It is currently unclear whether additional areas would be needed for some aspects of the transmission line

construction (e.g., pulling and tensioning sites). AES has stated that an unanticipated discoveries and monitoring plan will be in place during construction of the proposed EREF and transmission line. Consultation between the NRC, the Idaho SHPO, and AES is ongoing.

For the purposes of NHPA 106 consultation pursuant to 36 CFR 800.8, the NRC finds that one historic property would be affected within the APE.

In accordance with the June 17, 2009, and February 17, 2010, letters to the Idaho SHPO, the NRC staff is enclosing the Draft EIS for your review and comment. Pursuant to 36 CFR 800.8(c), we are requesting your comments on the Draft EIS and on our preliminary conclusions regarding historic and cultural resources. Please provide any information, comments, or concerns you may have on the Draft EIS during the comment period, which ends Monday, September 13, 2010. The NRC staff will address your comments in the Final EIS. Comments should be submitted in writing either by mail to Cindy Bladey, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, Mailstop TWB-05-B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, or by e-mail to [EagleRock.EIS@nrc.gov](mailto:EagleRock.EIS@nrc.gov).

The NRC staff plans to hold a public meeting to discuss the contents of the Draft EIS on Thursday, August 12, 2010, at the Red Lion Hotel on the Falls Convention Center, 475 River Parkway, Idaho Falls, Idaho 83402. The meeting will convene at 7:30 p.m. and will continue until 10:00 p.m. The meeting will be transcribed and will include the following agenda items: (1) a brief presentation of NRC's roles and responsibilities and the licensing process, (2) a presentation summarizing the contents of the Draft EIS, and (3) an opportunity for interested government agencies, tribal governments, organizations, and individuals to provide comments on the Draft EIS. Additionally, the NRC staff will host informal discussions in an open house forum one hour before the start of the meeting, during which members of the public may meet and talk with NRC staff members. You and your staff are invited to attend.

R. Nelson

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If you have any questions or require additional information, please contact Mr. Stephen Lemont, Senior Project Manager, by phone at 301-415-5163, or by e-mail at [Stephen.Lemont@nrc.gov](mailto:Stephen.Lemont@nrc.gov).

Sincerely,

/RA/

Diana Diaz-Toro, Chief  
Environmental Review Branch A  
Environmental Protection  
and Performance Assessment Directorate  
Division of Waste Management  
and Environmental Protection  
Office of Federal and State Materials  
and Environmental Management Programs

Docket No.: 70-7015

Enclosure:  
Draft EIS

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If you have any questions or require additional information, please contact Mr. Stephen Lemont, Senior Project Manager, by phone at 301-415-5163, or by e-mail at [Stephen.Lemont@nrc.gov](mailto:Stephen.Lemont@nrc.gov).

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<b>DATE</b>	07/08/10	07/12/10	07/12/10	07/14/10

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cc without enclosure:

Sam Shakir/AES  
George Harper/AES  
Jim Kay/AES  
Jim Curtiss/Curtiss Law  
Roger S. Christensen/Bonneville County  
Dave Radford/Bonneville County  
Lee Staker/Bonneville County  
Steve Serr/Bonneville County  
Cleone Jolley/Bingham County  
Donavan Harrington/Bingham County  
A. Ladd Carter/Bingham County  
Jared Fuhriman/Idaho Falls  
S. Pengilly/Idaho SHPO

Wendy Reynolds/BLM  
Jack Depperschmidt/DOE-INL  
Theogene Mbabaliye/EPA Region 10  
Ty Matthews/USFWS  
Alonzo Coby/S-B Tribes  
Willie Preacher/S-B Tribes  
Mark Dietrich/IDEQ  
Sharon Kiefer/IDFG  
Andrea Shipley/SRA  
Beatrice Brailsford/SRA  
Liz Woodruff/SRA  
Mike Virtue/Blackfoot