

November 24, 2010

MEMORANDUM TO: Diana Diaz-Toro, Branch Chief
Environmental Review Branch A
Division of Waste Management
and Environmental Protection
Office of Federal and State Materials
and Environmental Management Programs

FROM: Asimios Malliakos, Project Manager **/RA/**
Environmental Review Branch A
Division of Waste Management
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SUBJECT: SCOPING SUMMARY REPORT – ENVIRONMENTAL IMPACT
STATEMENT SCOPING PROCESS FOR THE PROPOSED
INTERNATIONAL ISOTOPES FLUORINE EXTRACTION PROCESS
AND DEPLETED URANIUM DE-CONVERSION PLANT

Enclosed please find for your concurrence and subsequent issuance the scoping summary report for the proposed International Isotopes Fluorine Products, Inc. Fluorine Extraction Process and Depleted Uranium De-conversion Plant to be located in Lea County, New Mexico. This report summarizes the public comments received during the scoping period.

Enclosure:
Summary Report

cc: See next page

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**ENVIRONMENTAL IMPACT STATEMENT SCOPING
PROCESS**

SCOPING SUMMARY REPORT

**PROPOSED INTERNATIONAL ISOTOPES FLUORINE
PRODUCTS, INC. (IIFP) FLUORINE EXTRACTION PROCESS
AND DEPLETED URANIUM DE-CONVERSION PLANT
TO BE LOCATED IN LEA COUNTY, NEW MEXICO**

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1.0 Introduction

On December 30, 2009, International Isotopes Fluorine Products, Inc. (IIFP) submitted an application to the U.S. Nuclear Regulatory Commission (NRC) for a license to construct and operate a proposed Fluorine Extraction Process (FEP) and Depleted Uranium De-conversion Plant (FEP/DUP) to be located at a site 22.5 kilometers (km) (14 miles [mi]) west of the City of Hobbs in Lea County, New Mexico. An Environmental Report was also submitted by IIFP at that time. If licensed, the FEP/DUP facility would be used for the deconversion of commercially-generated depleted uranium hexafluoride (DUF₆) inventories into depleted uranium oxide and other deconversion products.

In accordance with NRC regulations in Title 10 of the Code of Federal Regulations (10 CFR) Part 51 (10 CFR 51), which implement the National Environmental Policy Act of 1969, as amended (NEPA), the NRC is preparing an Environmental Impact Statement (EIS) for the proposed FEP/DUP facility as part of its decision-making process. The EIS will examine the potential environmental impacts associated with the proposed facility. The NRC has not identified any cooperating agencies for the preparation of this EIS. In addition to the EIS, the NRC will prepare a Safety Evaluation Report (SER) which will document the staff's review of safety and security issues associated with the proposed facility.

On July 15, 2010, NRC published in the *Federal Register* (FR) a Notice of Intent to prepare an EIS and to conduct the public scoping process (75 FR 41242). The public scoping comment period ended on August 30, 2010. Scoping is an early part of the NEPA process designed to help determine the range of actions, alternatives, and potential impacts to be considered in the EIS, and to identify significant issues related to the proposed action. In addition to the public scoping process, the NRC solicits input from State, local and other Federal agencies, and potentially affected Native American Tribes in order to focus on issues of genuine concern.

On July 29, 2010, the NRC staff held a public scoping meeting in Hobbs, New Mexico, to receive oral and written comments from interested parties. The public scoping meeting began with NRC staff providing a description of the NRC's roles, responsibilities, and mission. A brief overview of the licensing process was followed by a description of the environmental review process and a discussion of how the public can participate. The majority of the meeting was reserved for the public to ask questions and make comments on the scope of the environmental review.

As part of the environmental review process, the NRC has requested information regarding the scope of its environmental review from several sources. The NRC initiated consultation with the New Mexico State Historic Preservation Officer (SHPO), in accordance with the procedures in 36 CFR 800 to meet the requirements of Section 106 of the National Historic Preservation Act. In accordance with 36 CFR 800.3(f), the NRC has requested information from Native American Tribal members identified by the SHPO and the NRC staff. The NRC staff has also consulted with representatives of the U.S. Fish and Wildlife Service (USFWS) as required by Section 7 of the Endangered Species Act. The National Park Service was contacted and indicated that no parks would be affected by the project.

This scoping summary report addresses only comments received through the public scoping process and will be included as an Appendix of the EIS. Input from consulting agencies and potentially affected Native American Tribes will also be used as a basis for the impact assessments performed for each resource area. Correspondence with the SHPO and potentially-affected Native American Tribes will be included in an Appendix of the EIS. Correspondence with the USFWS, the National Park Service, and New Mexico Environment Department (NMED) will also be included in an Appendix of the EIS.

This report has been prepared to summarize the comments received during the scoping process as required in 10 CFR 51.29(b). After publication of the draft EIS, the public will be invited to submit comments on the draft EIS. Availability of the draft EIS, the dates of the public comment period, and information about a public meeting to discuss the draft EIS will be announced in the Federal Register, on the NRC's website (<http://www.nrc.gov/public-involve.html>), and in the local news media. After evaluating comments on the draft EIS, the NRC staff will issue a final EIS that will serve as the basis for the NRC's consideration of potential environmental impacts in its decision on whether to license the proposed facility.

This report is organized into four main sections. Section 1 provides an introduction and background information on the environmental review process. Section 2 summarizes the comments and concerns expressed by government officials, agencies, and the public. Section 3 identifies the issues that the draft EIS will address and Section 4 describes those issues that are not within the scope of the draft EIS. Where appropriate, Section 4 also identifies other places in the decision-making process where issues that are outside the scope of the draft EIS may be considered.

2.0 ISSUES RAISED DURING THE SCOPING PROCESS

2.1 Overview

The public scoping process is an important component in determining the major issues that the NRC should address in the draft EIS. The comments provided by the public addressed several subject areas related to the IIFP proposed facility and the development of the draft EIS. Members of the public were able to submit comments on the scope of the IIFP proposed facility EIS by e-mail, postal mail, and by speaking and/or submitting written comments at the public scoping meeting held in Hobbs, New Mexico, on July 29, 2010. The scoping period ended on August 30, 2010.

Approximately 60 individuals not affiliated with the NRC attended the July 29, 2010, public scoping meeting in Hobbs, New Mexico. During the meeting, one individual asked a specific question about the licensing process. Ten individuals offered specific oral comments related to the proposed FEP/DUP facility. In addition, 28 written comments were received from various individuals during the public scoping period, which ended on August 30, 2010. The scoping meeting transcript and the scoping comment letters received by the NRC are available on the NRC website, electronic reading room, at <http://www.nrc.gov/reading-rm/adams/web-based.html>. The ADAMS accession number for the scoping meeting transcript is ML102210424.

In addition to private citizens, the commenters included:

- A representative of Senator Tom Udall
- A Lea County Commissioner
- A Hobbs City Commissioner
- The Mayors of the Cities of Hobbs and Eunice
- The City Manager of Eunice
- State Senator Carroll Leavell (Letter read on his behalf)

Individuals providing oral and written comments addressed several subject areas related to the environmental review process of the proposed FEP/DUP facility. The following general topics categorize the comments received during the public scoping period:

- General support or opposition
- Socioeconomics
- Waste Management
- Water Resources
- Geology and Seismicity
- Transportation
- Public and Occupational Health
- Out of Scope

In addition to raising issues about the potential environmental impacts of the proposed facility, some commenters offered opinions and concerns that typically would not be included in an EIS. Although noted by the NRC in this summary document, comments of this type are not within the scope of environmental issues to be analyzed.

Other statements may be relevant to the proposed action, but have no direct bearing on the evaluation of alternatives or on the decision-making process regarding the proposed action. For instance, general statements of support for or opposition to the proposed action fall into this category. Comments of this type have been noted but are not used in defining the scope and content of the EIS.

2.2 Summary of Issues Raised

Several individuals provided comments regarding the beneficial potential socioeconomic impacts of the proposed facility on the local community. Other comments addressed potential impacts or risks posed by the facility due to seismic concerns, availability of water sources, transportation and disposal of waste, and possible health impacts associated with nuclear facilities. The following summary groups the comments received during the scoping period by technical area and issue.

2.2.1 General Support or Opposition

Several commenters expressed general support for the FEP/DUP facility. One commenter expressed opposition to locating the FEP/DUP facility, or any facility that deals with nuclear byproducts, in an area with a history of earthquakes and over an aquifer.

2.2.2 Socioeconomics

Three commenters expressed support for the project, specifically for the jobs that will be created by construction and operation of the facility and the positive economic impact it will have on the region.

2.2.3 Waste Management

Two commenters supported the project as a way to use uranium 'tails' that will be generated at the nearby URENCO USA uranium enrichment plant. One commenter stated that a disposal path for waste from the FEP/DUP facility to the Andrews County, Texas, nuclear waste disposal facility is an unsafe disposal path. This commenter also requested that the EIS include disposal site suitability requirements, as described in 10 CFR 61.50.

2.2.4 Water Resources

One commenter stated that the EIS should include the aquifer map that has been prepared by Mesa Water Company. The same commenter also stated that Lea County lacks an adequate water supply for a nuclear project. This commenter expressed concern about a site that may potentially be used for disposal of waste from the FEP/DUP facility being located over the Ogallala Aquifer. The commenter also stated that the water supply of Hobbs, Eunice, and Jal risks being polluted by allowing a nuclear project in the area.

2.2.5 Geology and Seismicity

One commenter stated that the EIS should include the seismic hazards that have been indicated for Lea County by the U.S. Geological Survey. This commenter also stated that the Lea County site should not have been selected due to its seismic history. The commenter also expressed concerns about possible contamination of the Ogallala Aquifer by nuclear waste released during an earthquake.

2.2.6 Transportation

One commenter expressed concerns about the transportation of waste from the facility in Lea County (New Mexico) to the Andrews County, Texas, nuclear waste disposal facility just across the state line.

2.2.7 Public and Occupational Health

One commenter submitted a New Mexico Department of Health report showing elevated cancer rates in Lea County compared to other parts of the state and stated concern that allowing nuclear industry in the area will raise cancer rates.

2.2.8 Out of Scope

One commenter stated that the New Mexico Environment Department's denial of his request to set up offsite radiation monitors should be included in the EIS. One commenter stated that employees of various federal agencies should waive their liability immunity through the Federal Tort Claims Act and be fully liable for any damages, pollution to the water table, and loss of livelihood and health of Lea County citizens caused by any future earthquakes.

3.0 SCOPE OF THE ENVIRONMENTAL IMPACT STATEMENT

The NEPA (42 U.S.C. 4321, et seq., as amended), and the NRC's implementing regulations for NEPA (10 CFR 51), specify in general terms what should be included in an EIS prepared by the NRC staff. Regulations established by the Council on Environmental Quality (40 CFR parts 1500-1508), while not binding on the NRC, provide useful guidance. Additional guidance for meeting NEPA requirements associated with licensing actions can be found in NUREG-1748, "Environmental Review Guidance for Licensing Actions Associated with NMSS Programs."

Pursuant to 10 CFR 51.71(a), in addition to public comments received during the scoping process, the EIS will also consider matters discussed in the IIFP Environmental Report. In accordance with 10 CFR 51.71(b), the EIS will consider major points of view and objections concerning the environmental impacts of the proposed action raised by other Federal, State, and local agencies, by any affected Indian Tribes/Pueblos, and by other interested persons. Pursuant to 10 CFR 51.71(c), the EIS will list all Federal permits, licenses, approvals, and other entitlements that must be obtained in implementing the proposed action, and will describe the status of compliance with these requirements. Any uncertainty as to the applicability of these requirements will be addressed in the EIS.

In accordance with 10 CFR 51.71(d), the draft EIS will include a preliminary analysis that considers and weighs the environmental effects of the proposed action, the environmental impacts of the alternatives to the proposed action, and alternatives available for reducing or avoiding adverse environmental effects. In the analysis, due consideration will be given to compliance with environmental quality standards and regulations that have been imposed by Federal, State, regional, and local agencies having responsibilities for environmental protections. The environmental impact of the proposed action will be evaluated in the EIS with respect to matters covered by such standards and requirements, regardless of whether a certification or license from the appropriate authority has been obtained. Compliance with applicable environmental quality standards and requirements does not negate the requirement for the NRC to weigh all environmental effects of the proposed action, including the degradation, if any, of water quality, and to consider alternatives to the proposed action that are available for reducing adverse effects.

While satisfaction of the NRC standards and criteria pertaining to radiological effects is necessary to meet the licensing requirements of the Atomic Energy Act, the EIS will also, for the purposes of NEPA, consider the radiological and nonradiological effects of the proposed action and alternatives. The development of the EIS is closely coordinated with the SER prepared by the NRC staff to evaluate the potential health and safety impacts of the proposed action. The EIS will also contain a discussion of the potential cumulative impacts of the proposed action.

Pursuant to 10 CFR 51.71(f), the draft EIS will include a preliminary recommendation by the NRC staff with respect to the proposed action. Any such recommendation will be reached after considering the environmental effects of the proposed action and reasonable alternatives, and after weighing the costs and benefits of the proposed action.

One goal in writing the EIS is to present the impact analyses in a manner that makes it easy for the public to understand. This EIS will provide the basis for the NRC decision with regard to potential environmental impacts. Those resources with potential significant impacts will be discussed in greater detail in the EIS than resources with potential minor or no impacts. This should allow readers of the EIS to focus on issues that were determined to be important in reaching the conclusions supported by the EIS. The following topical areas and issues will be addressed in the EIS.

Alternatives. The EIS will describe and assess the no-action alternative and other reasonable alternatives to the proposed action. Other alternatives may include alternative sites or alternative processes to the proposed chemical process.

Need for the Facility. The EIS will provide a discussion of the need for the proposed FEP/DUP facility.

Compliance with Applicable Regulations. The EIS will list relevant permits and regulations that apply to the proposed FEP/DUP facility. These include air, water, and solid waste disposal permits.

Land Use. The EIS will discuss the potential land use impacts associated with the proposed site preparation, construction, and operating activities. As appropriate, the assessment will include an analysis of mitigation measures to address potential adverse impacts.

Transportation. The EIS will discuss the potential impacts associated with the transportation of the construction materials, feed material, product, and waste during both normal transportation and under credible accident scenarios. The potential impacts on local transportation routes due to workers, delivery vehicles, and waste removal vehicles will be evaluated. As appropriate, the assessment will include an analysis of mitigation measures to address potential adverse impacts.

Geology and Soils. The EIS will assess the potential impacts to the geology and soils of the proposed FEP/DUP facility. The potential for earthquakes or any other major ground motion considerations will be addressed in the SER and potential environmental impacts of those phenomena will be evaluated in the EIS. As appropriate, the assessment will include an analysis of mitigation measures to address potential adverse impacts.

Water Resources. The EIS will assess the potential impacts on surface water and groundwater quality and water use due to the proposed action. As appropriate, the assessment will include an analysis of mitigation measures to address potential adverse impacts.

Ecological Resources. The EIS will assess the potential environmental impacts on ecological resources, including plant and animal species. Threatened and endangered species and critical habitats that may occur in the area will be discussed. The outcomes of consultations with

resource protection agencies, as required by Section 7 of the *Endangered Species Act* of 1973 (16 U.S.C. Section 1536(a)(2)), will be discussed. As appropriate, the assessment will include an analysis of mitigation measures to address potential adverse impacts.

Air Quality. The EIS will make determinations concerning the meteorological conditions of the site location, the ambient air quality, the contributions of other sources to air quality, and the potential impacts of site preparation, construction, and operation of the proposed FEP/DUP facility on local air quality. In addition, the EIS will consider the impact of the proposed facility on climate change. As appropriate, the assessment will include an analysis of mitigation measures to address potential adverse impacts.

Noise. The EIS will discuss the potential impacts associated with noise from site preparation, construction, operation, and decommissioning of the proposed FEP/DUP facility. As appropriate, the assessment will include an analysis of mitigation measures to address potential adverse impacts.

Historic and Cultural Resources. The EIS will address the potential impacts of the proposed FEP/DUP facility on the historic and archaeological resources of the area. The outcomes of consultations with historic and cultural resource protection agencies, consistent with Section 106 of the *National Historic Preservation Act* of 1966 (36 CFR 800) will be discussed. As appropriate, the assessment will include an analysis of mitigation measures to address potential adverse impacts.

Visual and Scenic Resources. Potential impacts to the overall visual and scenic character of the area will be addressed. As appropriate, the assessment will include an analysis of mitigation measures to address potential adverse impacts.

Socioeconomics. The EIS will address demography, economic base, labor pool, housing, utilities, public services, education, and recreation potentially affected by the proposed action and alternatives. The hiring of new workers from outside the area could lead to potential impacts on regional housing, public infrastructure, and economic resources. Potential population changes leading to changes in the housing market and demands on the public infrastructure will be assessed. As appropriate, the assessment will include an analysis of mitigation measures to address potential adverse impacts.

Costs and Benefits. The EIS will compile in one place the costs and benefits of the proposed project so that a determination can be made of any net positive benefit to Lea County, the region, and the Nation. The EIS will compare the potential environmental and monetary costs and benefits of constructing and operating the proposed FEP/DUP facility.

Resource Commitments. The EIS will identify the potential for any unavoidable adverse impacts and irreversible and irretrievable commitments of resources. It will also address the relationship between local, short-term uses of the environment and the maintenance and enhancement of long-term productivity. Associated mitigative measures and environmental monitoring requirements will be presented, as applicable.

Public and Occupational Health. The EIS will include a determination of potentially adverse effects on human health that result from chronic and acute exposures to ionizing radiation and

hazardous chemicals, and from physical safety hazards. Potentially adverse effects on human health might occur during site preparation, construction, operation, or decommissioning. Potential impacts associated with the implementation of the proposed action will be assessed under normal operation and credible accident scenarios. As appropriate, the assessment will include an analysis of mitigation measures to address potential adverse impacts.

Waste Management. The EIS will discuss the management of wastes, including by-product materials, generated from the site preparation, construction, and operation of the proposed FEP/DUP facility to assess the potential impacts of generation, storage, and disposal.

Decommissioning. The EIS will provide a discussion of facility decommissioning and associated potential impacts.

Cumulative Impacts. The EIS will address the potential cumulative impacts from past, present, and reasonably foreseeable future activities at and near the site, including preconstruction activities and a proposed facility expansion.

Environmental Justice. The EIS will address any potential disproportionately high and adverse environmental impacts of the proposed FEP/DUP facility on low-income and minority populations.

4.0 ISSUES CONSIDERED TO BE OUTSIDE THE SCOPE OF THE ENVIRONMENTAL IMPACT STATEMENT

The purpose of an EIS is to assess the potential environmental impacts of a proposed action in order to assist in an agency's decision-making process – in this case, NRC's licensing process. As noted in Section 2.1, some issues and concerns raised during the scoping process are not relevant to the EIS because they are not directly related to the assessment of potential environmental impacts or the decision-making process. The lack of in-depth discussion in the EIS, however, does not mean that an issue or concern lacks value. Issues beyond the scope of the EIS either may not yet be at the point where they can be resolved or are more appropriately discussed and decided in other venues.

Some of the issues raised during the public scoping process for the proposed facility are outside the scope of the EIS, but are analyzed in the SER. For example, health and safety issues are considered in detail in the SER prepared by the NRC staff for the proposed action and are summarized in the EIS. The EIS and the SER are related in that they may cover some of the same topics and may contain similar information, but the analysis in the EIS is focused on the assessment of potential environmental impacts. In contrast, the SER deals primarily with safety evaluations and procedural requirements or license conditions to ensure the health and safety of workers and the general public. The SER also covers other aspects of the proposed action such as demonstrating that the applicant will provide adequate funding for the proposed facility in compliance with the NRC's financial assurance regulations.

Some of the issues raised during the public scoping process are not addressed in the EIS as they are not appropriate for resolution in the EIS. Other issues, including support of or opposition to nuclear facilities and the liability of federal workers under the Federal Tort Claims Act, are also beyond the scope of the EIS. The mission of the NRC is to license and regulate

the Nation's civilian use of byproduct, source, and special nuclear materials in order to protect public health and safety, promote the common defense and security, and protect the environment. The NRC's regulations are designed to protect both the public and workers against radiation hazards from industries that use radioactive materials. The NRC's scope of responsibility includes regulation of commercial nuclear power plants; research, test, and training reactors; nuclear fuel cycle facilities; medical, academic, and industrial uses of radioactive materials; and the transport, storage, and disposal of radioactive materials and wastes. Activities not within the jurisdiction of the NRC are not subject to NRC regulations nor appropriate for consideration in the NRC's decision making process.