

April 1, 2013

Mr. Wally Murphy, Field Supervisor
U.S. Fish and Wildlife Service, Region 2
New Mexico Ecological Service Field Office
2105 Osuna Road, NE
Albuquerque, NM 87113

SUBJECT: REQUEST FOR CONCURRENCE ON U.S. NUCLEAR REGULATORY COMMISSION'S DETERMINATION OF NO EFFECT ON FEDERALLY-LISTED SPECIES AND THEIR CRITICAL HABITAT FOR THE URENCO USA PROPOSED CAPACITY EXPANSION OF THE GAS CENTRIFUGE URANIUM ENRICHMENT FACILITY IN LEA COUNTY, NEW MEXICO

Dear Mr. Murphy:

On November 9, 2012, URENCO USA (UUSA) submitted an application to the U.S. Nuclear Regulatory Commission (NRC) to amend special nuclear materials license SNM-2010 to authorize UUSA to expand the existing gas centrifuge uranium enrichment facility near Eunice in Lea County, New Mexico. The UUSA facility is located within a 220-hectare (543-acre) parcel of land of which about 160 hectares (394 acres) have been disturbed by existing construction. With the proposed expansion, UUSA expects that surface disturbance would be limited to those areas previously disturbed for the construction of the existing facility. See the UUSA's Supplemental Environmental Report (ER) Figure 4.12-2, "Site Layout for UUSA" and Figure 4.1-1, "Site Plan Showing Proposed Facility Capacity Expansion and Undeveloped Areas." The Supplemental ER is available through NRC's web-based Agencywide Documents Access and Management System (ADAMS), which can be found at <http://www.nrc.gov/reading-rm/adams.html>. The accession number for the UUSA's Supplemental ER is ML122620653.

The gas centrifuge uranium enrichment process uses a large number of rotating cylinders (centrifuges). In this process, UF_6 gas is placed in centrifuges and rotated at a high speed to create a centrifugal force that separates the lighter U-235 atoms from the heavier U-238 atoms. To obtain the desired concentration of U-235 a number of centrifuges are connected in series.

UUSA submitted the application pursuant to the NRC requirements in 10 CFR Part 52. The NRC staff accepted the application for docketing on January 25, 2013. It is available through ADAMS under accession number ML12319A591. The Supplemental ER, which had been submitted in advance on September 10, 2012, is posted in ADAMS under the accession number ML122620653.

In June 2005, NRC published an Environmental Impact Statement, NUREG-1790, to document its evaluation of the potential environmental impacts of Louisiana Energy Services' (LES') (now d/b/a UUSA) proposed National Enrichment Facility (NEF) site (now known as the UUSA site). In support of the NRC's evaluation of the potential impacts to federally-listed species from the proposed NEF, the NRC consulted with the U.S. Fish and Wildlife Service, New Mexico Ecological Services Field Office (USFWS/NMESFO). Based on that consultation, NRC determined that there would be no effects on federally-listed species and their critical habitat from the construction, operation, and decommissioning of the proposed NEF. Documentation from

NRC's consultation with USFWS/NMESFO is included in Appendix B to NUREG-1790. The USFWS/NMESFO letter, dated March 26, 2004, is also available in ADAMS. The accession number for the USFWS/NMESFO letter is ML040960489.

In response to UUSA's current proposal to expand its facility, NRC Staff has re-evaluated its conclusions in NUREG-1790 in light of UUSA's application, and the current list of threatened, endangered, and candidate species accessible from USFWS/NMESFO's public website, at <http://www.fws.gov/southwest/es/NewMexico/>. Based on a review of the UUSA application, the habitat on the UUSA site has not changed since June 2005.

The list of species for Lea County, New Mexico, has changed with the addition of Sprague's pipit (*Anthus spragueii*) as a candidate species and the Whooping crane (*Grus Americana*) as an experimental, non-essential population. Additionally, although the following species were on the list in 2005, there was a change in Federal status for: (1) the bald eagle (*Haliaeetus Leucocephalus*), which was delisted in 2007; (2) the Northern aplomado falcon (*Falco femoralis septentrionalis*) from an endangered species to an experimental, non-essential population; and (3) the black-tailed prairie dog (*Cynomys ludovicianus*) from a candidate species to a species of concern.

Given the analysis in NUREG-1790, the staff's previous consultation with USFWS/NMESFO, and the determination that the habitat at the UUSA site has not changed since 2005, the NRC staff continues to find that the proposed expansion of the UUSA facility will have no effect on federally-listed species and their critical habitat. For the two species added to the list for Lea County, New Mexico, since 2005, these species have not been found on the UUSA site, and the habitat for these species is not found on or in the near vicinity of the UUSA site.

With respect to potential impacts to migratory birds, UUSA, based on recommendations from the New Mexico Department of Game and Fish, uses netting or other suitable means to minimize the use of project-related ponds by birds and waterfowl. Therefore, the NRC staff finds that the proposed UUSA facility expansion will have no effect on migratory birds.

We request your concurrence with NRC's determination of "no effect" on any Federally-listed species or their critical habitat.

M. Murphy

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If you have any questions, please contact Mr. Asimios Malliakos of my staff at (301) 415-6458 or by email at Asimios.Malliakos@nrc.gov.

Sincerely,

/RA/

Kevin Hsueh, Chief
Environmental Review Branch
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.: 70-3103

cc: Matt Wunder
New Mexico Department of Game
and Fish

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