

April 1, 2013

Mr. Matt Wunder, Chief
Conservation Services Division
New Mexico Department of Game and Fish
P.O. Box 25112
Santa Fe, NM 87504

SUBJECT: REQUEST FOR CONCURRENCE ON U.S. NUCLEAR REGULATORY COMMISSION'S DETERMINATION OF NO SIGNIFICANT IMPACT ON STATE-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. Wunder:

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, UF₆ 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 listed species from the proposed NEF, the NRC staff consulted with the New Mexico Department of Game and Fish (NMDGF). The NRC staff determined that there would be no significant impact to State-listed species or to those species' critical habitat from the construction, operation, and decommissioning of the proposed NEF and the NMDGF supported the conclusion reached by the NRC staff of no significant

adverse impact. Documentation from NRC's consultation with NMDGF is included in Appendix B to NUREG-1790 and in NRC's responses to NMDGF's comments, found in Appendix J to NUREG-1790. The NMDGF letters are also available in ADAMS. The accession numbers for the two NMDGF letters dated February 23, 2004, and November 1, 2004, are ML040840246 and ML043130370, respectively.

In response to UUSA's current proposal to expand its facility, NRC has re-evaluated its conclusions in NUREG-1790 in light of UUSA's application, and the current list of threatened, endangered, and restricted species for Lea County accessible through links found at NMDGF's public website, at <http://www.wildlife.state.nm.us/conservation/index.htm>. Based on a review of the UUSA application, the habitat on the UUSA site has not changed since June 2005.

The current State-listed species for Lea County consists of the following endangered species: (1) the least tern (*Sterna antillarum athalassos*), (2) the Northern aplomado falcon (*Falco femoralis septentrionalis*), and the sand dune lizard (*Sceloporus arenicolus*), and the following threatened species: (1) the American peregrine falcon (*Falco peregrinus anatum*), (2) the Arctic peregrine falcon (*Falco peregrinus tundrius*), (3) the Baird's sparrow (*Ammodramus bairdii*), (4) the bald eagle (*Haliaeetus Leucocephalus*), (5) Vireo, Bell's (*Vireo bellii*), and (6) the broad billed hummingbird (*Cynanthus latirostris magicus*).

Given the analysis in NUREG-1790, the staff's previous consultation with NMDGF, 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 significant impact on state-listed species and their critical habitat. Surveys of the UUSA site have not noted the presence of these species.

With respect to potential impacts to migratory birds, UUSA, based on recommendations from NMDGF, 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 significant impact on migratory birds.

We request your concurrence with NRC's determination that there would be no significant impact to State-listed species or their critical habitat from the proposed expansion of the UUSA facility.

M. Wunder

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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: Wally Murphy
U.S. Fish & Wildlife Service

M. Wunder

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