

September 30, 2009

Mr. George A. Harper, Vice President of Engineering
Eagle Rock Enrichment Facility
AREVA Enrichment Services, L.L.C.
400 Donald Lynch Boulevard
Marlborough, MA 01752

SUBJECT: CONSTRUCTION INSPECTION REQUIREMENTS (AREVA ENRICHMENT SERVICES, L.L.C., EAGLE ROCK ENRICHMENT FACILITY)

Dear Mr. Harper:

AREVA Enrichment Services (AES) has indicated to the staff of the U. S. Nuclear Regulatory Commission (NRC) that in the event the NRC grants AES a license to construct and operate the Eagle Rock Enrichment Facility (EREF), AES intends to construct and commence operation of the proposed facility in phases. The purpose of this letter is to describe the requirements for performing construction inspections to address a phased commencement of operations.

Section 193(c) of the Atomic Energy Act of 1954 (AEA), as amended, provides that, "prior to commencement of operation of a uranium enrichment facility licensed hereunder, the Commission shall verify through inspection that the facility has been constructed in accordance with the requirements of the license for construction and operation." This requirement is codified in the NRC's regulations under Title 10 of the *Code of Federal Regulations* (10 CFR) 40.41(g) and 70.32(k) and applies to each construction phase and each cascade planned to be placed into operation. The NRC staff will conduct the required construction inspections in addition to the operational readiness review (ORR) inspections. Where appropriate, the construction and ORR inspections may be combined. The ORR inspections will address construction for each of the applicable phases and will also address the operational programs, or significant changes to those operational programs, for each of the applicable phases.

Pursuant to Section 193(c) of the AEA and 10 CFR 40.41(g) and 70.32(k), if AES plans to institute a phased operational start-up of the enrichment facility, it will need to ensure that its license and licensing basis documents (i.e, License Application, Safety Analysis Report, Environmental Report, etc.) describe the processes, equipment, and the portion of the facility that will be applicable to each phase of construction. The NRC staff will conduct construction inspections in a manner that would facilitate a Commission decision on whether the facility was constructed in accordance with the license. In addition, the NRC staff will conduct ORR inspections in a manner sufficient to verify that AES can safely and securely operate the facility. The frequency and scope of these ORR inspections will be dependent on the status of AES' operational programs and the proposed phases of operation.

Following each of the construction inspections, the NRC staff will document its findings in an inspection report. The actual inspection and issuance of the inspection report confirming that applicable portions of the facility have been constructed in accordance with the license requirements must be completed prior to introducing licensed material into that portion of the facility. The NRC staff expects that AES will coordinate the timing of the construction inspections and the ORR inspections with our Regional inspection staff to minimize any issues with AES' construction and operations schedule objectives.

Authorization to begin operations will be documented in a letter from the Regional Administrator and the NRC staff will initiate the process for publishing the inspection results in the *Federal Register*. As neither Section 193(c) of the AEA, as amended, nor the NRC's regulations require that the *Federal Register* notice be published prior to beginning operations, AES will not be required to delay the commencement of operations pending publication of the *Federal Register* notice.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records component of the NRC's Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible from the NRC web site at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room).

If you have any questions, please contact me via e-mail at Dan.Dorman@nrc.gov, or at (301) 492-3132.

Sincerely,

/RA/

Daniel H. Dorman, Director
Division of Fuel Cycle Safety
and Safeguards
Office of Nuclear Material Safety
and Safeguards

Docket No.: 70-7015

cc: James Curtiss/Curtiss Law
Sam Shakir/ AREVA Enrichment Services
Jim Kay/AREVA Enrichment Services

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