



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

May 13, 2015

Mr. Tom Melius
Regional Director
U.S. Fish and Wildlife Service
Midwest Region (Region 3)
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Mr. Peter J. Fasbender
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U.S. Fish and Wildlife Service
Green Bay ES Field Office
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SUBJECT: AVAILABILITY OF THE DRAFT ENVIRONMENTAL IMPACT STATEMENT FOR THE CONSTRUCTION PERMIT FOR THE PROPOSED SHINE MEDICAL RADIOISOTOPE PRODUCTION FACILITY, AND THE U.S. NUCLEAR REGULATORY COMMISSION'S DETERMINATION THAT THE PROPOSED ACTION WOULD HAVE NO EFFECT ON FEDERALLY LISTED OR PROPOSED SPECIES OR CRITICAL HABITATS

Dear Mr. Melius and Mr. Fasbender:

With this letter, the U.S. Nuclear Regulatory Commission (NRC; the staff) is forwarding you a copy of its draft Environmental Impact Statement (EIS) regarding the construction permit submitted by SHINE Medical Technology, Inc. (SHINE) for the proposed SHINE Medical Radioisotope Production Facility (SHINE facility), in accordance with the National Environmental Policy Act of 1969, as amended (NEPA); Title 10, Part 51 of the *Code of Federal Regulations* (10 CFR Part 51); and the Endangered Species Act of 1973, as amended (ESA). This letter refers to the enclosed document as the draft "Environmental Impact Statement" (EIS).

The purpose of this letter is twofold: (1) to notify the U.S. Fish and Wildlife (FWS) that the NRC staff has determined that the proposed action would have no effect on Federally proposed or listed species, or proposed or designated critical habitat under FWS's jurisdiction, and (2) to provide FWS with information on the NEPA public comment period and associated public meetings for the draft EIS.

Project Summary

The SHINE facility, if licensed, would produce radioisotopes for use in diagnostic medical isotope procedures. The proposed location of this facility is approximately 4 miles south of the city center of Janesville, Rock County, Wisconsin. The proposed site would cover approximately 91 acres (37 hectare), which primarily consist of cultivated agricultural land; the remaining portion of the site includes some developed areas and open space. Due to the previous agricultural use at the proposed site, the site does not include forest, wetlands,

grasslands, or prairie habitats. In addition, no ephemeral, intermittent, or perennial streams and associated riparian zones are located within the boundaries of the proposed SHINE site.

The proposed Federal action is for the NRC to decide whether to issue a construction permit under 10 CFR Part 50 that would allow construction of a medical radioisotope production facility. The NRC considered the potential impacts from construction, operations, and decommissioning in its analysis of effects to ESA-protected species and critical habitats.

The enclosed draft EIS addresses the environmental impacts of the proposed Federal action and alternatives. Chapter 3 of the enclosed draft EIS describes the affected environment, including terrestrial resources, aquatic resources, and ESA-protected species and critical habitats. Chapter 4 assesses impacts to these and other environmental resources. Chapter 5 assesses the environmental impacts of alternatives.

ESA “No Effect” Determination

As part of preparing the draft EIS, the NRC performed an assessment of whether the proposed action has the potential to adversely affect any Federally listed or proposed species or proposed or designated critical habitats. This assessment is documented in Sections 3.5, 4.5, and Appendix D of the draft EIS. The draft EIS fulfills the NRC’s obligation to prepare a biological assessment under ESA section 7(c) and 50 CFR 402.12. Accordingly, the NRC did not prepare a separate biological assessment for the construction permit.

In Section 3.5 of the draft EIS, the NRC describes the action area and the ESA-protected species and critical habitats that have the potential to be present in the action area. This section includes information pursuant to 50 CFR 402.12(f)(1), (2), and (3). Section 4.5 of the draft EIS provides an assessment of the potential effects of the proposed action on the species and critical habitat present and the NRC’s effect determinations, which are consistent with those identified in Section 3.5 of the *Endangered Species Consultation Handbook*¹. The NRC also addresses cumulative effects and alternatives to the proposed action. This section includes information pursuant to 50 CFR 402.12(f)(4) and (5).

In Section 4.5, the NRC staff concludes that the proposed action would have no effect on any ESA-protected species or critical habitats. The NRC understands that FWS does not typically provide its concurrence with “no effect” determinations by Federal agencies² and that an agency’s finding of “no effect” requires no further informal consultation or the initiation of formal consultation. Nonetheless, because the draft EIS constitutes the NRC’s biological assessment, the NRC staff is submitting a copy for your review in accordance with 50 CFR 402.12(j). The NRC welcomes any comments you may have on potential effects to ESA-protected species and critical habitats. Please let us know within 30 days from the date of receipt of this letter if you do not agree with the staff’s “no effect” determination. You can submit your comments by letter directly to me or through the NEPA comment process described below. Should you need to

¹ U.S. Fish and Wildlife Service and National Marine Fisheries Service. 1998. *Endangered Species Consultation Handbook: Procedures for Conducting Consultation and Conference Activities Under Section 7 of the Endangered Species Act*. March 1998. Washington, DC: U.S. Government Printing Office.

² [FWS] U.S. Fish and Wildlife Service. 2013. “Consultations: Frequently Asked Questions.” Available at <http://www.fws.gov/endangered/what-we-do/faq.html>.

discuss the project before making a determination, please contact Michelle Moser of my staff. Ms. Moser's contact information is below.

NEPA Comment Period and Public Meetings

Pursuant to NEPA, the NRC is seeking comments on the draft EIS through July 6, 2015. During the comment period, the NRC staff plans to hold two public environmental meetings at the Rotary Botanical Gardens, 1455 Palmer Drive, Janesville, WI 53545, on June 10, 2015, from 2:00 p.m. until 4:00 p.m. and from 7:00 p.m. until 9:00 p.m. The meetings will be transcribed and will include a presentation of the contents of the draft EIS and the opportunity for interested government agencies, organizations, and individuals to provide comments on the draft report. I invite you and your staff to attend the public meetings and to submit comments on the draft EIS. See the enclosed Federal Register notice or go to <http://www.Regulations.gov> and search for documents filed under Docket ID NRC-2013-0053 for additional information on the NEPA process and on how to submit comments.

Conclusion

I look forward to future coordination with your offices to ensure the continued protection of Federally listed species and designated critical habitats at the proposed SHINE site. If you have any questions regarding this letter, please contact Ms. Michelle Moser, Biologist, at 301-415-6509 or by e-mail at Michelle.Moser@nrc.gov.

Sincerely,

/RA/

David J. Wrona, Chief
Environmental Review and Guidance Branch
Division of License Renewal
Office of Nuclear Reactor Regulation

Docket No. 50-608

Enclosures:

1. Draft EIS
2. Federal Register Notice

cc w/encl: See next page

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OFFICIAL RECORD COPY

Letter to Tom Melius and Peter Fasbender from David Wrona dated May 13, 2015

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