

**UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

OHIO NUCLEAR-FREE)	
NETWORK and BEYOND)	
NUCLEAR,)	Case No. 21-1162
)	
Petitioners,)	
)	
v.)	
)	
UNITED STATES NUCLEAR)	
REGULATORY COMMISSION and)	
the UNITED STATES OF)	
AMERICA,)	
)	
Respondents.)	

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PETITIONERS’ STATEMENT OF THE ISSUES

Petitioners Ohio Nuclear-Free Network and Beyond Nuclear (“Petitioners”) seek review of the June 11, 2021 Approval Letter from the NRC to American Centrifuge Operating, LLC (“ACO”), and all other documents by which the NRC approved the HALEU Project respecting the following issues:

- 1) That the amendments to the underlying ACO licenses were not properly authorized by the Commission.
- 2) That the Commission wrongfully and unlawfully failed to discharge its

legal and non-discretionary duty to consider whether granting the license amendments could be inimical to the common defense and security of the United States or the health and safety of the public, as required by the Atomic Energy Act, particularly 42 U.S.C. §§ 2077(c)(2) and 2099 (“AEA”), which mandates identification of all reasonable alternatives that could eliminate or mitigate those risks.

3) That the Commission wrongfully and unlawfully prepared only an Environmental Assessment/Finding of No Significant Impact (“EA/FONSI”), instead of an Environmental Impact Statement (“EIS”) for the HALEU Project, in contradiction of the National Environmental Policy Act (“NEPA”), § 102(2)(C) (42 U.S.C § 4332(2)(C)), as well as pertinent NRC regulations and Council on Environmental Quality (“CEQ”) regulations.

4) That the HALEU Project is the beginning of an integrated full-scale application of Centrus centrifuge technology and was “segmented” into pieces to avoid EIS scrutiny of the larger, overall HALEU development and manufacturing plan, in violation of NEPA.

5) That the HALEU Project will produce “unobligated” enriched uranium for defense applications which have not been adequately disclosed nor analyzed, either in the ACO application documents or in the NRC approval-related papers.

6) That environmental justice implications of the project, arising from the mining and processing of uranium, the production of HALEU and HEU as part of the HALEU Project, and the disposition of wastes from the Project were not disclosed and analyzed as required by NEPA, NRC regulations, and the President's executive order.

7) That past industrial nuclear enrichment processes along with careless handling and disposal practices of wastes, have caused radioisotopes, including transuranic nuclear wastes, to be dispersed widely across the Portsmouth Site and to offsite locations in three counties. These isotopes pose a threat to worker health, public health and the environment. There is not an adequate analysis in ACO's application of the possibilities of further contamination events from plant operations associated with producing HALEU.

8) That HALEU (and Highly-Enriched Uranium, or "HEU") produced by the project is likely to be desirable for theft, trafficking and terrorist uses, none of which is comprehensively addressed in the EA/FONSI. HALEU is comparatively easy to enrich to HEU concentrations and could be used as a source of fissionable explosive material for thermonuclear weapons as well as for "dirty" nuclear bombs. The HEU generated as part of the HALEU Project could be used, without further enrichment, in nuclear bombs. Despite the adaptability of HALEU and

HEU to weaponization, the NRC did not conduct a nuclear weapons proliferation assessment prior to approving the license changes, contrary to the requirements of the AEA and NEPA.

9) Centrus's Revised License Application ("RLA") request does not match the scope of the HALEU project, which is supposedly to construct and operate 16 total centrifuges. The Licensee (ACO) proposes to install centrifuges in increments in the American Centrifuge Plant up to a capacity of 3.8 million SWU (Separative Work Units) production annually. The RLA envisions far more than 16 centrifuges.

10) Uranium enrichment in the HALEU cascade will be conducted to 25% enrichment levels, which are unprecedented at the Portsmouth Site. Uranium that is 25% enriched comprises HEU under the AEA. The enrichment levels envisioned by the project pose unresolved questions concerning safety and criticality. The Lead Centrifuge Cascade license, SNM-7003, was issued in 2004 following the NRC's publication of an EA/FONSI with a Safety Evaluation Report. Six Lead Cascade centrifuges malfunctioned and crashed during operations in 2011 in a project that had been scrutinized only in an EA/FONSI, instead of an EIS. The 25% enrichment to create HEU which will be allowed in this HALEU feasibility project is well above the 10% level examined in the 2006

EIS for the American Centrifuge project. That project proposed producing enriched uranium for identified commercial purposes. Since that time, no entity in the United States has used gaseous centrifuges to enrich beyond 10%.

11) That the EA/FONSI does not adequately discuss or consider alternatives to the HALEU project, in violation of NEPA.

12) That the analyses of criticality and measures to mitigate the potential for inadvertent criticality are inadequate under both the AEA and NEPA.

13) That the NRC licensing approval documents fail to identify and analyze cumulative effects on the HALEU plan of other Special Nuclear Material production, enrichment and remediation activities taking place at the Portsmouth Site, such as the processing of depleted uranium, the ongoing demolition of contaminated structures, and disposal of radioactively contaminated material in an onsite landfill, which is geologically connected to the water table beneath.

14) That a Programmatic EIS is warranted, based upon the actual scope of the HALEU Project.

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CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of August, 2021, I served the foregoing Statement of the Issues upon the following via electronic mail and via deposit of the foregoing document in the Court's electronic case filing system, which according to its protocols would automatically notify all counsel of record:

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